

***McKEAN TOWNSHIP ZONING ORDINANCE***

*Ordinance No. 2-1983 as amended*

***McKEAN TOWNSHIP***

***ERIE COUNTY, PENNSYLVANIA***

*With amendments through December 2015*

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## ARTICLE I—GENERAL PROVISIONS

### Section 100—Title

This Ordinance shall be known and may be cited as the “Zoning Ordinance of McKean Township”. The map herein referred to, which is identified as the “McKean Township Zoning Map” dated May 24, 1985, as amended and all the explanatory matter thereon, are hereby adopted and made a part of this Ordinance. (amended April 7, 1988, Ordinance No. 1-88); (amended October 13, 1988, Ordinance No. 5-88); (amended June 27, 1989, Ordinance No. 1-89); (amended October 5, 1989, Ordinance No. 3-89); (amended March 4, 1993, Ordinance No. 1-93); (amended May 19, 1994, Ordinance No. 1-94); (amended December 1, 1994, Ordinance No. 4-94); (amended June 6, 1996, Ordinance No. 1-96); (amended July 3, 1997, Ordinance No. 3-97); (amended April 2, 1998, Ordinance No. 1-98); (amended January 7, 1999, Ordinance No. 1-99); (amended August 22, 2000, Ordinance No. 3-00); (amended May 15, 2003, Ordinance No. 1-03); (amended July 7, 2005, Ordinance No. 3-05); (amended July 21, 2005, Ordinance No. 4-05); (amended June 1, 2006, Ordinance No. 3-06); (amended April 5, 2007, Ordinance No. 3-07); (amended July 5, 2007, Ordinance No. 6-07); (amended May 1, 2008, Ordinance No. 2-08); (amended July 3, 2008, Ordinance No. 3-08); (amended April 2, 2009, Ordinance No. 2-09); (amended April 1, 2010, Ordinance No. 1-10); (amended June 3, 2010, Ordinance No. 3-10); (amended April 7, 2011, Ordinance No. 1-11); (amended August 1, 2013, Ordinance No. 4-13); (amended May 1, 2014, Ordinance No. 1-14); (amended December 4, 2014, Ordinance No. 2-14)

### Section 101—Purposes of the Zoning Standards

For the purpose of lessening congestion on the roads and highways to secure safety from fire, panic and other danger; to promote health and general welfare; to avoid undue congestion of population; to facilitate the adequate provision of transportation, water, sewage, schools, parks and other requirements. It is not the intent of this Ordinance to restrict control or place hardship upon the continued agricultural use of land within its area of jurisdiction and control. This Ordinance is inclusive zoning in that no use may be operated in a district unless it is specifically included as a use by the right for that district.

The specific objectives of this Ordinance are a summary of the broad goals extracted from the McKean Township Comprehensive Plan of 1997. They generally encompass the procedures outlined in the plan regarding the method of physical plan development, the method of effectuation program development, coordination of the diversified physical elements, and the protection of the health, safety, morals and general welfare of the public. (amended November 10, 1988, Ordinance No. 6-88).

- (A) Community Development Objectives: This Ordinance and Zoning Map are intended to promote, protect and facilitate the public health, safety, morals, general welfare, coordinated and practical community development, proper density of population, civil defense, the provisions of adequate light and air, police protection, vehicle parking and loading space, transportation, water, sewage, schools, public grounds and other public requirements as well as preventing the overcrowding of land,

light, danger and congestion in travel and transportation, loss of health, life or property from fire, flood, panic or other dangers. More specifically, these broad purposes are designed to clearly achieve the objectives of the McKean Area Comprehensive Plan. (amended July 3, 1997, Ordinance No. 3-97)

The specific objectives of this Ordinance are set forth to include the following:

- (1) To support and encourage order and beauty in the development of McKean Township's environment for the convenience and pleasure of present citizens and future residents through sound land development practices and the provision of adequate public utilities and facilities.
- (2) To encourage future land development to compliment a logical, harmonious and efficient pattern of future township growth.
- (3) To preserve strategic properties suitable for industrial development for the establishment of suitable diversified industry within the Township.
- (4) To project property values, to insure a suitable, attractive and efficient community environment.
- (5) To encourage developers to incorporate adequate public sewer and water facilities and neighborhood design.
- (6) To encourage utilization of appropriate construction practices to minimize flood damage in the future; minimize danger to public health by protecting water supply and natural drainage; reduce financial burdens imposed on the community, its governmental units and its residents, by regulated development in areas subject to flooding.

### **Section 102—Effective Date and Repealer**

This Ordinance shall take effect on June 11, 1983. This Ordinance repeals the original Zoning Ordinance adopted on the 12<sup>th</sup> day of March, 1960, and all amendments thereto.

### **Section 103—Compliance**

No structure shall be located, erected, constructed, reconstructed, moved, altered, converted or enlarged, nor shall any structure or land be used or designed to be used except in full compliance with all the provisions of this Ordinance and after the lawful issuance of all permits and certifications required by this Ordinance.

**Section 104—Severability**

If any provision of this Ordinance or the application of any provision to particular circumstances is held invalid, the remainder of the Ordinance or the application of such provision to other circumstances shall not be affected.

**Section 105—Conflict**

Whenever there is a difference between minimum standards or dimensions or provisions specified herein, and those contained in other regulations or ordinances of McKean Township, the most restrictive and/or the highest standards shall govern.

**ARTICLE II—DEFINITIONS**

**Section 200—General Interpretation**

For purposes of this Ordinance and unless otherwise expressly stated, the following words, terms and phrases when used in this Ordinance shall be construed, interpreted and defined throughout this Ordinance to have the meanings herein indicated; and in those instances where certain other words, terms and phrases are not specifically defined in this Ordinance, then they shall have the common meanings given to them as expressed in the 1993 Tenth Edition of Merriam Webster’s Collegiate Dictionary, a copy of which is located in the McKean Township Municipal Building. Words not defined in the Zoning Ordinance nor by the cited dictionary shall be given their common meaning. (amended December 1, 1994, Ordinance No. 4-94); (amended July 3, 1997, Ordinance No. 3-97)

- (A) Words used in the present tense shall include the future.
- (B) Words used in the singular includes the plural and the plural the singular. (amended December 1, 1994, Ordinance No. 4-94)
- (C) The word “person” includes a corporation as well as an individual.
- (D) The word “lot” includes the words “plot” or “parcel”.
- (E) The term “shall” is always mandatory.
- (F) The term “may” is always permissive.
- (G) The words “used” or “occupied” as applied to any buildings shall be construed to be followed by the words “or intended, arranged, or designed to be occupied or used”. (amended December 1, 1994, Ordinance No. 4-94)
- (H) The word “building” includes the word “structure”.
- (I) Unless otherwise specified, all distances shall be measured horizontally.



- (J) The masculine shall include the feminine and the neuter. (added December 1, 1994, Ordinance No. 4-94)

**Section 201—Meaning of Words** (amended July 3, 1997, Ordinance No. 3-97)

- (A) Unless otherwise expressly stated, the following words shall, for the purpose of this Ordinance, have the meaning herein indicated: (amended June 6, 1996, Ordinance No. 1-96)

**Accessory Use:** A use customarily incidental and subordinate to the principal use or building and located on the same lot with such principal use or building.

**Adult Entertainment Uses** shall include the following: (added February 1, 2001, Ordinance No. 1-01)

- (1) Adult Arcade: Any place to which the public is permitted or invited wherein coin operated, slug operated, or for any form of consideration, or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, video or laser disc players, or any other image-producing devices are maintained to show images to five (5) or fewer persons per machine at any one time, and where the images are so displayed are distinguished or characterized by the depicting or describing of “specified sexual activities” or “specified anatomical areas”.
- (2) Adult Bookstore, Adult Novelty Store, or Adult Video Store: A commercial establishment which, as one of its principal purposes, offers for sale or rental for any form of consideration any one or more of the following:
  - (a) Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes or video reproductions, slides, or other visual representations which are characterized by the depiction or description of “specified sexual activities” or “specified anatomical areas”; or
  - (b) Instruments, devices or paraphernalia that are designed for use in connection with “specified sexual activities” or “specified anatomical areas”.

PARAGRAPH (2) NOTE: A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing “specified sexual activities” or “specified anatomical areas”,

and still be categorized as an adult book store, an adult novelty store, or adult video store. Such other business purposes will not serve to exempt such commercial establishments from being categorized as an adult book store, an adult novelty store, or adult video store so long as one of its purposes is the offering for sale or rental for consideration of specified materials which are characterized by the depiction or description of “specified sexual activities” or “specified anatomical areas”.

- (3) Adult Cabaret: A night club, bar, bottle club, restaurant, or similar commercial establishment which regularly features:
  - (a) Persons who appear in a state of nudity or semi-nudity; or
  - (b) Live performances which are characterized by the exposure of “specified sexual activities” or “specified anatomical areas”; or
  - (c) Films, motion pictures, videocassettes, slides or other photographic reproductions, which are characterized by the depiction or description of “specified sexual activities” or “specified anatomical areas”.
- (4) Adult Motion Picture Theater: Commercial establishments where, for any form of consideration, films, motion pictures, videocassettes, slides, or similar photographic reproductions are regularly shown which are characterized by the depiction or description of “specified sexual activities” or “specified anatomical areas”.
- (5) Adult Theatre: A theatre concern, hall, auditorium, or similar commercial establishment which regularly features persons who appear in a state of nudity or semi-nudity, or live performances which are characterized by the exposure of “specified sexual activities” or “specified anatomical areas”.
- (6) Bottle Club: An establishment operated for profit or pecuniary gain, which has a capacity for the assembly of twenty (20) or more persons and in which alcoholic liquors, alcohol or malt or brewed beverages are not legally sold, but where alcoholic liquors, alcohol or malt or brewed beverages are either provided by the operator or agents or employees of the operator for the consumption on the premises or are brought into or kept at the establishment by the patrons or persons assembling there for use and consumption.

- (7) Escort Agency: 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.
- (8) Massage Parlor: Any place where a person offers a massage to other persons who pay money or any other form of consideration. Massage Parlor shall not include a facility wherein a person licensed or certified pursuant to Title 63 of the Pennsylvania Statutes offers massage as a form of treatment.
- (9) Nude Model Studio: Any place where a person who appears semi-nude, in a state of nudity, or who displays “specified anatomical areas” and is provided to be observed, sketched, drawn, painted, sculptured, photographed or similarly depicted by other persons who pay money or any form of consideration. Nude model studio shall not include a proprietary school licensed by the Commonwealth of Pennsylvania or a college, junior college or university supported entirely or in part by public taxation; 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 in a structure:
  - (a) That has no sign visible from the exterior of the structure and no other advertising that indicates a nude or semi-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 or semi-nude model is on the premises at any one time.
- (10) Sexual Encounter Center: A business or commercial enterprise that, as one of its principal business purposes, offers for any form of consideration:
  - (a) Physical contact in the form of wrestling or tumbling between persons of the opposite sex; or
  - (b) Activities between male and female persons and/or persons of the same sex where one or more of the persons is in a state of nudity or semi-nudity.

**Agriculture:** Any agriculture use, as herein defined: including farming, pasturage, agriculture, horticulture, floriculture, viticulture, and forestry, including the harvesting of timber. It shall include all animal and poultry raising, and husbandry.

**Alteration:** As applied to a building or structure, means a change or rearrangement in the structural part or in the exit facilities, or in the enlargement, whether by extending, as a side, or by increasing in height, or the moving from one location to another.

**Applicant:** A landowner or developer, as hereinafter defined, who has filed an application for development, including his heirs, successors and assigns.

**Area:** Area of a lot or site calculated from dimensions derived by horizontal projections of the site.

**Auction or Sale at Auction:** The offer to sell property by an auctioneer or apprentice auctioneer to the members of an audience congregated for the purpose of making bids for the purchase of the property in an effort by the auctioneer or apprentice auctioneer to advance the amount of the bids to obtain the highest or most favorable offer. (added June 6, 1996, Ordinance No. 1-96)

**Auction House:** A place of business, including, but not limited to, an auction barn, an auction facility, a sale barn and a sale pavilion, where one or more auctions are held within any 12-month period and where representations are regularly made that property is sold at auction. The term does not include premises where isolated sales are conducted by an auctioneer or auctioneer apprentice and which are used primarily for purposes other than auctions or sales at auction. (added June 6, 1996, Ordinance No. 1-96)

**Basement:** A story having more than 50% of its clear height above the average level of the surrounding ground, but with a floor elevation below grade. A basement shall be counted as one-half story for the purposes of height measurement if the vertical distance between the ceiling and the average level of the adjoining ground is more than five feet or if used for a dwelling unit, not space on other floors of the building.

**Bed and Breakfast Homestead or Inn:** A private residence which contains ten or fewer bedrooms used for providing overnight accommodations to the public and in which breakfast is the only meal served and is included in the charge for the room. (added June 6, 1996, Ordinance No. 1-96)

**Billboard:** A sign other than one indicating a business conducted on the premises; a sign upon which advertising matter of any character is printed, posted or lettered; and it may be either free-standing or attached to the surface of a building or other structure.

**Board:** The Zoning Hearing Board of the Township of McKean, Erie County, Pennsylvania.

**Boarding, Rooming, Tourist or Lodging House:** A building where lodging is provided, for compensation, for three or more persons.

**Building Line:** An imaginary line located a fixed distance from the front line of the lot and interpreted as being the nearest point that a building may be constructed to the front lot line. The building line shall limit the location of porches, patios, and similar construction, steps excepted, to the face of this line.

**Building:** Any structure designed or intended for the support, enclosure, shelter, or protection of persons, animals, or property. (amended December 6, 1990, Ordinance No. 4-90)

**Building or Structure Height:** The vertical distance from the average elevation at grade level, to the highest point of the deck of a flat roof or mansard roof, or to the mean height between the eaves and the ridge for gable, hip and gambrel roofs, or to the highest point of any other structure not having the type of roof(s) set forth in this subsection. (amended December 6, 1990, Ordinance No. 4-90)

**Building Permit:** The written authorization issued by a Code Administrator (as defined in the Pennsylvania Uniform Construction Code, 35 P.S. § 7210.103) to permit the construction and/or the alteration of a building or structure. No Building Permit shall be issued until the owner first obtains a Zoning Permit issued by McKean Township in accordance with this Ordinance and/or other applicable ordinances and regulations. (amended July 7, 2005, Ordinance No. 3-05)

**Cabin:** A temporary lodging unit not affixed to a permanent foundation without permanent utility connections. (added April 5, 2007, Ordinance No. 3-07)

**Camp:** Site for temporary lodging of sportsmen, fishermen, campers, hunters, or families. (amended April 5, 2007, Ordinance No. 3-07)

**Camper:** A vehicular portable structure to be mounted on a chassis or wheels and towed or constructed as an integral part of a self-propelled vehicle for use as temporary dwelling for travel, recreation, and vacation commonly known as travel trailers, pickup coaches, motor homes, or camping trailers. (added April 5, 2007, Ordinance No. 3-07)

**Campground:** A tract or tracts of land, or any portions thereof, used for the purpose of short term (days, weeks, month, or season) fee leasing or renting to camping guest(s) for occupancy with their own equipment, i.e., titled camper, tent, or campground provided cabins. Besides the basic facilities such as restrooms and store/lobby, the land may also occupy buildings, facilities and equipment such as laundry, store, pool, recreation and sports facilities, food services, game room and entertainment facilities. Such additional facilities may also be made available for a fee to the general public. (added April 5, 2007, Ordinance No. 3-07)

**Campingsite:** A parcel of land in an organized camp or campground for the placement of a single trailer, cabin, and/or tent and the exclusive use of its occupants. (added April 5, 2007, Ordinance No. 3-07)

**Certificate of Occupancy:** A written authorization issued by a Code Administrator certifying that a building or structure complies with all applicable provisions of the Uniform Construction Code. (amended July 7, 2005, Ordinance No. 3-05)

**Child Day Care:** Care in lieu of parental care given for part of the twenty-four (24) hour day to children under sixteen (16) years of age, away from their own homes, but does not include child day care furnished in places of worship during religious services and does not include child day care provided simultaneously for less than four (4) children. This Ordinance identifies the following three (3) levels of child day care: (added July 3, 1997, Ordinance No. 3-97)

- (1) **Family Child Day Care Home:** Any home in which child day care is provided simultaneously for four (4), five (5), or six (6) children who are not relatives of the caregiver, where the child day care area also is used as a family residence.
- (2) **Group Child Day Care Home:** Any home in which child day care is provided simultaneously for six (6) to twelve (12) children who are not relatives of the caregiver, where the child day care area also is used as a family residence. (Any home in which child day care is provided simultaneously for six (6) to twelve (12) children who are not relatives of the caregiver, where the child day care area is not used as a family residence shall be considered a Child Day Care Center.)
- (3) **Child Day Care Center:** Any facility in which child day care is provided simultaneously for seven (7) or more children who are not relatives of the operator, where the child day care area is not used as a family residence.

**Church:** An establishment designed and intended for religious instruction or public worship.

**Clinic:** Any establishment where human patients are examined and treated by doctors and other licensed professionals, but not hospitalized overnight.

**Club:** An establishment operated for social, recreational, or educational purposes but open only to members or invited guests and not the general public.

**Commercial:** Engaging in a business, enterprise, activity or other undertaking ordinarily or actually for profit.

**Commercial/Industrial Wind Energy System:** A wind energy system consisting of one or more wind turbines, towers, and associated controls and conversion electronics which has a rated capacity of greater than one hundred (100) kilowatts (KW) and which is designed and used solely to generate power to offset utility costs. (added April 7, 2011, Ordinance No. 1-11)

**Commission or Planning Commission or Township Planning Commission:** The Planning Commission of McKean Township, Erie County, Pennsylvania.

**Communications Antenna:** Any device used for the transmission or reception of radio, television, wireless telephone, pager, commercial mobile radio service or any other wireless communications signals, including without limitation omnidirectional or ship antennas and direction or panel antennas, owned or operated by any person or entity licensed by the Federal Communications Commission (FCC) to operate such device. This definition shall not include private residence mounted satellite dishes or television antennas or amateur radio equipment including without limitation ham or citizen band radio antennas. (added April 2, 1998, Ordinance No. 1-98)

**Communications Equipment Building:** An unmanned building or cabinet containing communications equipment required for the operation of communications antennas and covering an area on the ground not greater than 250 square feet. (added April 2, 1998, Ordinance No. 1-98)

**Communications Tower:** A structure other than a building, such as a monopole, self-supporting or guyed tower, designed and used to support communications antennas. (added April 2, 1998, Ordinance No. 1-98)

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

**Comprehensive Plan:** The comprehensive, long-range plan document for the desirable use of land in McKean Township; the purpose of such plan being, among other things, to serve as a guide for the zoning and progressive rezoning of land to meet changing community needs, and the subdividing and use of undeveloped land and in the acquisition of land for such public purposes as streets, parks, schools, and other public buildings.

**Conditional Use:** A use which is subject to conditional approval by McKean Township under the terms, procedures, and conditions prescribed herein, after review and recommendation by the Township Planning Commission as specified in this Ordinance.

**Construction:** The construction, reconstruction, renovation, repair, extension, expansion, alteration, relocation of the building or structure, including the placement of mobile homes.

**Coverage, Lot:** That percentage of the lot area covered by principal and accessory use structures.

**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:** Any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, the placement of mobile homes, streets, and other paving, utilities, filling, grading, excavation, mining, dredging, or drilling operations in the subdivision of land.

**Drive-in Facility:** A commercial business that provides service to the occupants of a vehicle from a window, booth, or other structure designed to provide such service without the occupants leaving the vehicle. This shall include, but not be limited to, such establishments as drive-in banks, restaurants, laundries, and service stations. Also included in this category are automobile washing facilities that are designed to allow the vehicle to be driven or propelled through a wash bay.

**Dwelling:** A building or portion thereof designed for or occupied by two (2) families, living independently of each other with separate living, cooking, sanitary and entrance facilities for each which shall contain 1,200 or more square feet per unit on a lot of record in an R-2 Suburban Residential Zoning District. See Section 501 (D). (amended May 3, 2001, Ordinance No. 6-01; amended July 7, 2005, Ordinance No. 3-05, amended December 5, 2013, Ordinance No. 5-13)

**Dwelling, Multi-Family:** A building or portion thereof designed for or occupied by three (3) or more families living independently of each other with



separate living, cooking, sanitary and entrance facilities for each. See Section 501(D). (amended May 3, 2001, Ordinance No. 6-01)

**Dwelling, Single-Family:** A detached building arranged or used for occupancy by one family which shall contain 1,000 or more square feet per unit on a lot of record in an A-1 Conservation Zoning District and 1,200 or more square feet per unit on a lot of record in an R-1 Rural Residential Zoning District and R-2 Suburban Residential Zoning District. See Section 501(D). (amended May 3, 2001, Ordinance No. 6-01); (amended April 5, 2007, Ordinance No. 3-07)

**Dwelling, Two-Family:** A building or portion thereof designed for or occupied by two (2) families, living independently of each other with separate living, cooking, sanitary and entrance facilities for each which shall contain 1,000 or more square feet per unit on a lot of record in an A-1 Conservation Zoning District and 1,200 or more square feet per unit on a lot of record in an R-1 Rural Residential Zoning District and R-2 Suburban Residential Zoning District. See Section 501(D). (amended May 3, 2001, Ordinance No. 6-01); (amended April 5, 2007, Ordinance No. 3-07)

**Effective Date:** The date on which this Ordinance is duly adopted by the Township or as specified in the Ordinance adopting same.

**Essential Services:** The erection, construction, alteration or maintenance, by public utilities or municipal or other governmental agencies of underground or overhead gas, electrical, steam or water transmission or distribution systems, collection, communication, supply or disposal systems and their essential buildings, excluding communications towers and communications antennas, as defined herein. (amended April 2, 1998, Ordinance No. 1-98)

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

**Family:** A single person occupying a dwelling and maintaining a household; two (2) or more persons related by blood, marriage, foster relationship or adoption occupying a dwelling, living together and maintaining a common household, including not more than one boarder, roomer or lodger; or not more than three (3) unrelated persons occupying a dwelling, living together and maintaining a common household. Domestic servants employed on the premises may be housed on the premises without being counted as a family or families. (amended July 3, 1997, Ordinance No. 3-97)

**Family or Group Care Facility:** A facility which provides resident service in a private residence to five (5) or fewer individuals who are not related to the resident household. These individuals are handicapped, developmentally

disabled, mentally ill, mentally retarded, or otherwise in need of adult supervision and provided service in accordance with their individual needs. This category includes foster or boarding houses for children, group homes and halfway houses. (amended July 3, 1997, Ordinance No. 3-97)

**Farm:** A lot or plot of more than ten (10) acres devoted to or available for the cultivation of land.

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

**Flood Plain:** See definition of Flood-prone Area.

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

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

**Floor Area, Gross:** The sum of the gross horizontal areas of the several floors of a building, excluding cellar and basement floor areas not devoted to residential use, porches, patios, breezeways, carports, sun porches, or other similar structural additions.

**Garage, Parking:** A building or part thereof, other than a private garage, used for the storage of motor vehicles for rental purposes or where any such vehicles are kept for hire.

**Garage, Private:** An accessory building or part of a main building used primarily for the storage of motor vehicles as an accessory use by members of the family or families housed in the building to which such garage is an accessory.

**Garage, Public:** A garage other than a private garage where motor vehicles are stored, equipped for operation, repaired or kept for remuneration, hire or sale.

**Garage, Repair (See also Service Station):** Premises where motor vehicles are serviced and repaired, including engine overhaul and body work.

**Garage Sales (Includes Yard, Patio and similar residential sales):** A private non-continuous sale of surplus used household goods which is held on the premises in a district not zoned for commercial use.

**General Contracting Operations:** Shall include but not be limited to construction trades establishments such as plumbing, heating, air conditioning, painting, paper hanging, decorating, electrical, masonry and stonework, plastering and lathing, tile, marble, mosaic, carpentry, floor laying, carpet layer, roofing and sheet metal, glass and glazing work, excavating, water well drilling, and installation and erection of structures of any kind. (added December 3, 1998, Ordinance No. 4-98)

**Golf Course:** An area of land with or without accessory structures, buildings, and other site improvements laid out for golf with a series of nine (9) or eighteen (18) holes each including a tee, fairway, and putting green and often one or more natural or artificial hazards. A driving range shall be permitted as an accessory use to a golf course. (added December 5, 2013, Ordinance No. 5-13)

**Group Care Facility:** A facility which is licensed and inspected by an agency of the Commonwealth of Pennsylvania which provides residential services to at least six (6) residents who are handicapped, developmentally disabled, mentally ill or mentally retarded, including residents who are serving the sentence of a court of law, but not requiring or receiving skilled or intermediate nursing care of psychiatric or correctional treatment normally provided in an institutional setting, including rehabilitation homes. (added July 3, 1997, Ordinance No. 3-97)

**Hazardous Waste:** (added June 27, 1989, Ordinance No. 1-89) Hazardous waste is waste generated by any source which may:

- (1) cause or contribute to an increase in mortality or morbidity;
- (2) pose a substantial present or potential health hazard. It is the intent of this Ordinance that the definition of hazardous waste set forth herein shall have the same meaning and conform to the definition of hazardous waste as the same is defined by the laws and regulations of the Commonwealth of Pennsylvania.

**Height of a Communications Tower:** The vertical distance measured from the ground level to the highest point on a communications tower, including antennas mounted on the tower. (added April 2, 1998, Ordinance No. 1-98)

**Heliport:** An area used by helicopters for passenger and cargo facilities, maintenance and overhaul, fueling service, storage space, tie-down space, hangers, and other accessory buildings and open spaces.

**Helistop:** An area on the ground used by helicopters for the purpose of picking up or discharging passengers, refueling, storage space and hangars, but not including maintenance or overhaul.

**Home Occupation:** Any use customarily carried on entirely within a dwelling by occupants thereof, which use is clearly incidental and subordinate to the use of the dwelling for dwelling purposes and which does not change the residential character thereof. Home Occupation shall not be considered, construed or interpreted as being a No-Impact Home-Based Business.

**Hotel/Motel:** A building containing rooms which are used, rented or hired out to guests for sleeping purposes, and where only a central kitchen and dining room are provided within the building for guests and the general public and provides separate sanitary facilities.

**Horticulture:** Any form of growing, cultivation of or raising any fruits, vegetables, flowers and ornamental plants, including nurseries, hay and grain crops.

**Household Pets:** A domesticated animal that is normally or can generally be kept within the immediate living quarters of a residential structure. Any member of the swine, sheep, poultry, bovine or equidae family of quadrupeds, elephants, rhinoceroses, hippopotamus, moose, deer or reptiles having a venomous or constrictor nature does not constitute a household pet under any provision of this Ordinance.

**Identified Flood-prone Area:** The flood plain area specifically identified in this Ordinance as being inundated by the one hundred (100) year flood. Included would be areas identified as Floodway (FW), Flood Fringe (FF), and General Flood Plain (FA).

**Indoor Commercial Recreation Uses:** Indoor commercial recreational activities include bowling alleys, pool halls, pinball arcades and indoor tennis, handball, racquetball, basketball courts and similar activities used for recreational purposes for a profit.

**Injection Well:** Any well for the disposal of oil and gas drilling brine or any other liquid waste. (added August 12, 1986, Ordinance No. 1-86)

**Junk:** Shall include the following:

- (1) Any worn, cast-off, or discarded article or material which is ready for destruction or which has been collected or stored for sale, resale, salvage or conversion to some other use; or

- (2) Scrap, concrete, copper, brass, rope, rags, batteries, paper, trash, rubber, debris, waste, iron, steel, and other old or scrap ferrous or non-ferrous material, including wrecked, scrapped, ruined, dismantled or disassembled motor vehicles, or parts thereof; or
- (3) Any such article which, unaltered, not needed to be disassembled or unfastened from, or unchanged and without further reconditioning can be used for its original purposes as readily as when new shall not be considered junk.

**Junk—Automobile:** A motor vehicle which is not currently in running condition, not stored in a structure, without a current valid state license, and without a current state inspection sticker. (added May 3, 2001, Ordinance No. 6-01)

**Junkyard:** The use of more than two hundred (200) square feet of land or structure for the collecting, storage, processing and sale of scrap metal, scrapped, abandoned, or wrecked motor vehicles, machinery, equipment, waste paper, glass, rags, containers and other discarded materials or any of the items described in the definition of “Junk” above. It shall not include, however, refuse or garbage kept in a proper container for the purpose of prompt disposal. The dismantling of two (2) or more used vehicles or trailers or the storage, sale, or dumping of two (2) or more partially dismantled or obsolete or wrecked vehicles or trailers shall be considered a junkyard.

**Land Development:** (amended June 27, 1989, Ordinance No. 1-89)

- (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 nonresidential building on 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.

**Landowner:** The legal or beneficial owner or owners of land including the holder of an option or contract to purchase (whether or not such option or contract is subject to any condition), a lessee, if he is authorized under the

lease to exercise the rights of the landowner or other person having a proprietary interest in land, shall be deemed to be a landowner for the purposes of this Ordinance.

**Legislative Body:** The governing body of McKean Township.

**Light Manufacturing:** The processing or fabrication of certain materials and products which does not produce objectionable noise, vibration, air pollution, fire hazard or other disturbances or dangers to neighboring properties.

**Loading Space:** A portion of a lot usable for the loading or unloading of motor vehicles.

**Lot:** A designated parcel, tract or area of land established by a plat or otherwise as permitted by law and to be used, developed or built upon as a unit. (amended July 3, 1997, Ordinance No. 3-97)

**Lot, Corner:** A lot at the junction of and fronting on two or more intersecting street rights-of-way.

**Lot, Depth of:** A mean horizontal distance between the front and rear lot lines.

**Lot, Width of:** A mean horizontal distance between the side lot lines measured at its widest and narrowest points. (amended December 1, 1994, Ordinance No. 4-94)

**Lot of Record:** Any lot which, individually or as a part of a subdivision, has been recorded in the office of the Recorder of Deeds of Erie County, Pennsylvania. (amended July 3, 1997, Ordinance No. 3-97)

**Lot, Minimum Area of:** The area of a lot computed exclusive of any portion of the right-of-way of any public thoroughfare.

**Manufactured Home:** A single family dwelling constructed in a controlled factory environment, built under a federal building code administered by the U. S. Department of Housing and Urban Development (HUD), and as further defined in 35 P. § 7210.103. (added July 7, 2005, Ordinance No. 3-05)

**Manufactured Home Lot:** A parcel of land in a manufactured home park, to be improved or improved with the necessary utility connections and other appurtenances necessary for the placement thereon of a single manufactured home, which parcel is leased by the manufactured home park owner to the occupants of the manufactured home on the lot. (added July 7, 2005, Ordinance No. 3-05, replaced Mobile Home Lot)

**Manufactured Home Park:** A parcel of land under single ownership which has been planned and improved for the placement of manufactured homes for non-transient use, consisting of two or more manufactured home lots. (added July 7, 2005, Ordinance No. 3-05, replaced Mobile Home Park)

**Mobile Home:** The term used for factory-built homes produced prior to June 15, 1976. (amended July 7, 2005, Ordinance No. 3-05)

**Modular Home:** A single family dwelling constructed in accordance with the Uniform Construction Code. (added July 7, 2005, Ordinance No. 3-05)

**Motel:** See Hotel.

**Municipal Waste:** This term refers generally to waste generated by residential, municipal, industrial and commercial sources and not meeting the definition of residual or hazardous waste as those terms are defined by the Commonwealth of Pennsylvania. It is the intent of this Ordinance that the definition of municipal waste as set forth herein shall have the same meaning and conform to the definition of municipal waste as the same is defined by the laws and regulations of the Commonwealth of Pennsylvania (added June 27, 1989, Ordinance No. 1-89)

**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. No-Impact Home-Based Business should not be considered, construed or interpreted as being a Home Occupation.

**Non-Conforming Lot:** A lot the area or dimension of which was lawful prior to the adoption or amendment of a zoning ordinance, but which fails to conform to the requirements of the zoning district in which it is located by reasons of such adoption or amendment. (added December 1, 1994, Ordinance No. 4-94)

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

**Non-Conforming Use:** Means 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 to its location by reason of annexation.

**Obstruction:** Any wall, dam, wharf, embankment, levee, dike, pile abutment, projection, excavation, channel, rectification, culvert, building, fence, stockpile, refuse, fill, structure, or matter in, along, across, or projecting into any channel, water course, or flood prone area, which may impede, retard, or change the direction of the flow of water either in itself or by catching or collecting debris carried by such water or is placed where the flow of the water might carry the same downstream to the damage of life and property.

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

**Open Space:** Any area of land which is predominantly free of structures.

**Outdoor Commercial Recreational Use:** On a lot with or without accessory structures, buildings, or other site improvements, outdoor recreation, sports, or leisure activity by a gathering or congregation of persons with a levy of an admission fee, for a common purpose not limited to open air theaters, field sports facilities, miniature golf, driving ranges, water sports facilities, field houses, race tracks (motor and animals), motor vehicle racing, go-cart and miniature auto tracks, and other such similar commercial recreation uses excluding golf courses. (amended December 5, 2013, Ordinance No. 5-13)

**Outdoor Recreation Use:** On a lot with or without accessory structures, buildings, and other site improvements, outdoor recreation, sports, or leisure activity by a gathering or congregation of persons without a levy of an admission fee, for a common purpose such as softball, baseball, tennis, football, outside swimming, hiking, and other such similar recreational uses excluding golf courses. (added December 5, 2013, Ordinance No. 5-13)

**Parking Space:** A private parking space having an area of not less than 180 square feet, whether or not enclosed, located off the sidewalk and right-of-way of any public or private road. (amended July 3, 1997, Ordinance No. 3-97)

**Pennsylvania Planning Code:** Pennsylvania Municipalities Planning Code, Act 247 of July 31, 1968, and amendments to same as have been, or may be, adopted from time to time.

**Permitted Use:** Any use of land and/or structure(s) in a district which is in conformity with the provisions of this Ordinance.

**Personal Service:** Any enterprise conducted which primarily offers services to the general public, such as: shoe repair, valet service, watch repairing,



barber shops, beauty parlors, and related activities. (amended July 3, 1997, Ordinance No. 3-97)

**Planned Residential Development:** 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 nonresidential 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 this Zoning Ordinance.

**Planning Commission:** The McKean Township Planning Commission, McKean Township, Erie County, Pennsylvania.

**Pond:** An artificially confined body of water usually smaller than a lake (added December 1, 1994, Ordinance No. 4-94)

**Private Country Club:** An organization catering exclusively to members and their guests; or premises and buildings for recreational or athletic purposes which are not conducted for gain, providing that any vending stands or commercial activities are conducted only as required generally for the membership of such club.

**Professional Offices:** The use of offices and related spaces for professional services as are provided by doctors, dentists, teachers, lawyers, architects, engineers, certified accountants, and similar professions.

**Public:** Public includes any municipally-owned and/or operated use. (amended July 3, 1997, Ordinance No. 3-97)

**Public Grounds:** Includes parks, playgrounds, trails, paths, and other recreational areas and other public areas; also includes sites for schools, sewage treatment, refuse disposal and other publicly owned or operated facilities; and also includes publicly owned or operated scenic and historic sites. (amended December 1, 1994, Ordinance No. 4-94)

**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 action in accordance with Act 247, Pennsylvania Municipalities Planning Code. (added June 27, 1989, Ordinance No. 1-89)

**Public Meeting:** A forum held pursuant to notice under the act of July 3, 1986, known as the “Sunshine Act”. (added June 27, 1989, Ordinance No. 1-89)

**Public Notice:** 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 30 days and the second publication shall not be less than seven days from the date of the hearing. Notice shall be sent by regular mail, postage prepaid, to owners of record of all adjacent properties. (amended June 27, 1989, Ordinance No. 1-89)

**Public Utility Transmission Tower:** A structure, owned and operated by a public utility electric company regulated by the Pennsylvania Public Utility Commission, designed and used to support overhead electricity transmission lines. (added April 2, 1998, Ordinance No. 1-98)

**Recycling Center:** A building used for the recycling of municipal solid waste or residual waste, as these terms are defined by the Commonwealth of Pennsylvania and this Ordinance. Such operations may include drop-off facilities for the compaction or processing of such waste. The recycling or storage of hazardous waste (as defined by the Commonwealth of Pennsylvania and this Ordinance), waste water treatment plant sludge from any source, septic tank sludge, gas or oil well brine or nuclear waste shall not be included in this definition. (added June 27, 1989, Ordinance No. 1-89)

**Regulatory Flood Elevation:** The one hundred year flood.

**Relative:** Means parent, child, stepparent, stepchild, grandparent, grandchild, brother, sister, half-brother, half-sister, aunt, uncle, niece or nephew. (added July 3, 1997, Ordinance No. 3-97)

**Residual Waste:** Certain wastes or sludge generated from industrial, mining, agricultural or other operation that is not defined as municipal or hazardous waste by the Commonwealth of Pennsylvania. It is the intent of this Ordinance that the definition of residual waste as set forth herein shall have the same meaning and conform to the definition of municipal waste as the same is defined by the laws and regulations of the Commonwealth of Pennsylvania. (added June 27, 1989, Ordinance No. 1-89)

**Road:** The entire right-of-way of a public or private street or highway.

**Roadside Stand:** A permanent or temporary structure used for the display, support and protection of products such as vegetables, fruits, poultry and dairy products, etc.

**Sanitary Landfill:** A land site on which engineering principles are utilized to bury deposits of solid waste without creating public health or safety hazards, nuisances, pollution or environmental degradation.

**Screening:** The use of any natural objects, plantings, embankments, fencing, walls or structures or a combination of these.

**Semi-Trailer Storage Unit:** A container used for dry or liquid storage not affixed to a permanent foundation. Such units shall not have any sign, lettering, or advertising logos (other than ownership) and shall be considered an accessory use and require a permit for authorized land use. (added June 1, 2006, Ordinance No. 3-06)

**Service Station:** A retail place of business engaged primarily in the sale of motor fuels, but also in supplying goods and services generally required in the operation and maintenance of automotive petroleum products; sale and servicing of tires, batteries, automotive accessories and replacement items; washing and lubrication services; the performance of minor automotive maintenance and repair; and the supplying of other incidental customer services and products, but shall not include major auto body repairs.

**Shopping Center:** A group of two (2) or more retail stores or other commercial businesses planned and designed to function as a unit, and having off-street parking as an integral part of the unit, also known as a shopping mall or mini-mall contained on a separate lot of record. (added December 1, 1994, Ordinance No. 4-94)

**Sign:** Any structure or device to attract attention by words or graphic display.

**Small Wind Energy System:** A wind energy conversion system consisting of a wind turbine, a tower, and associated control and conversion electronics which has a rated capacity of not more than one hundred (100) kilowatts (KW) and which is designed and used to generate power solely to serve to offset utility costs of a principal and/or accessory structure located on the same lot on which said device is situated. (added April 7, 2011, Ordinance No. 1-11)

**Solid Waste:** Any waste, including but not limited to municipal, residual or hazardous wastes, including solid, liquid, semisolid, or contained gaseous materials. It is the intent of this Ordinance that the definition of solid waste set forth herein shall also have the same meaning and conform to the definition of solid waste as the same is defined by the laws and regulations of the Commonwealth of Pennsylvania. (amended June 27, 1989, Ordinance No. 1-89)

**Special Exceptions:** An authorized use, which may be granted only by the Zoning Hearing Board in accordance with express standards and criteria specified in this Ordinance after public hearing. (added August 12, 1986, Ordinance No. 1-86)

**Specialized Animal Raising and Caring:** The use of land and structures for the raising and caring of furbearing animals, animal kennels, bird raising, and similar operations which shall exclude such activities as feed lots. (added August 12, 1986, Ordinance No. 1-86; (amended July 3, 1997, Ordinance No. 3-97)

**Stacking:** Stacking refers to a single motor vehicle, or a number of motor vehicles, attended and actively waiting in a line to gain access to or be serviced by a facility. For the purpose of this Ordinance, all stacking is intended to occur within a parcel and not to intrude on a public street or highway thereby creating a potential traffic hazard. (added June 27, 1989, Ordinance No. 1-89)

**Story:** The portion of a building included between the surface of any floor and the surface of the floor next above it, or if there be no floor above it, the space between such floor and the ceiling above it.

**Street:** Includes street, avenue, boulevard, road, highway, freeway, parkway, lane, alley, viaduct, and any other ways used or intended to be used by 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 the land.

**Structure or Building Height:** The vertical distance from the average elevation at grade level, to the highest point of the deck of a flat roof or mansard roof, or to the mean height between the eaves and the ridge for gable, hip, and gambrel roofs, or to the highest point of any other structure not having the type of roof(s) set forth in this subsection. (added December 6, 1990, Ordinance No. 4-90)

**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 acres, not involving any new street or easement of access or any residential dwelling, shall be exempted. (amended June 27, 1989, Ordinance No. 1-89)

**Swimming Pool:** A structure intended for swimming or recreational bathing that contains water over 24 inches deep. This includes in-ground, aboveground and on-ground swimming pools, hot tubs and spas. (added December 1, 1994, Ordinance No. 4-94); (amended April 5, 2007, Ordinance No. 3-07)

**Swimming Pool, Private:** Any receptacle or artificially constructed container for water, whether erected above or below ground level, having a wall depth of

two (2) feet or more at any point within its perimeter, intended or adapted for the purposes of immersion or partial immersion of human beings therein, used in connection with dwelling units, available only to the family of the dwelling unit holder and his private guests, not open to the public, and not otherwise regulated by any statutes or by rules and regulations other than those of McKean Township. (added December 1, 1994, Ordinance No. 4-94)

**Swimming Pool, Public or Semi-Public:** Any swimming pool other than a private swimming pool, including publicly and privately owned pools open to the general public and pools owned and operated in conjunction with membership organizations, motels, hotels, and other similar uses. (added December 1, 1994, Ordinance No. 4-94)

**Tent:** A portable lodging unit usually made out of skins, plastic or strong cloth stretched and usually sustained by poles, and is dependent upon separate toilet and lavatory facilities. (added April 5, 2007, Ordinance No. 3-07)

**Trailer:** Any licensed or unlicensed piece of mobile equipment designed or constructed to be towed or pulled by a motor vehicle.

**Trailer (Camping and Recreational Equipment):** Shall include travel trailers, pickup coaches, motorized homes and recreational equipment as follows:

- (1) Travel trailer is a vehicular, portable structure built on a chassis, designed to be used as a temporary dwelling for travel, recreational and vacation purposes, permanently identified as a travel trailer by the manufacturer of the trailer.
- (2) Pickup coach is a structure designed primarily to be mounted on a pickup truck chassis with sufficient equipment to render it suitable for use as a temporary dwelling for travel, recreational and vacation purposes.
- (3) Motorized home is a portable dwelling designed and constructed as an integral part of a self-propelled vehicle.
- (4) Boat is a vessel designed to travel on water.
- (5) Boat trailer is a trailer designed to haul a boat as defined above.

**Transfer Station:** A facility used as an adjunct in a municipal solid waste collection system. Transfer stations are intended to allow the transfer of solid waste from one vehicle to another and may include compaction. Transfer stations are not intended for the long-term storage of solid waste. The handling of hazardous waste (as defined by the Commonwealth of

Pennsylvania and this Ordinance), waste water treatment plant sludge, septic tank sludge, gas or oil well brine or nuclear waste is expressly excluded. (added June 27, 1989, Ordinance No. 1-89)

**Truck Terminal:** A facility to accommodate the service, repair and storage of trucks and other motorized equipment, and which provides warehousing activities.

**Turbine Height:** For towers mounted at or near grade level, the distance measured from the surface of the tower foundation to the highest point of the turbine rotor plane. For towers mounted on a building, structure, or other base, the distance measured from the grade level of the building, structure, or base to the highest point of the turbine rotor plane. For towers mounted within a body of water, the distance measured from the surface of the water to the highest point of the turbine rotor plane. (added April 7, 2011, Ordinance No. 2-11)

**Uniform Construction Code:** The Construction Code and Regulations for Pennsylvania Municipalities as set forth in 35 P.S. § 7210.101 et seq. and 34 Pa. Code § 401.1 et seq., as each may be amended from time to time. (added July 7, 2005, Ordinance No. 3-05)

**Use:** The specific purpose for which land or a building is designed, arranged, intended or for which it is or may be occupied or maintained. The term “permitted use” or its equivalent shall not be deemed to include any non-conforming use.

**Use, Principal:** The major or dominant use of the lot on which it is located.

**Variance:** A departure from the strict letter of the Zoning Ordinance as it applied to specific properties as authorized by the Zoning Hearing Board in accordance with the provisions of this Ordinance.

**Water Well Drilling Business:** Engaging in the business of drilling or re-drilling water wells or providing equipment of services related to the drilling or re-drilling of water wells. (added August 12, 1986, Ordinance No. 1-86)

**Wind Energy Conversion System:** Any device such as a wind charger, wind turbine or windmill and/or other electric generation facility whose main purpose is to convert wind power into another form of energy such as electricity or heat for distribution, consisting of one or more wind turbines and other accessory structures and building(s), including but not limited to substations, meteorological towers, electrical infrastructure, transmission lines and other appurtenant structures and facilities. (added April 7, 2011, Ordinance No. 1-11)

**Wind Turbine:** A wind energy conversion system that converts wind energy into electricity through the use of a wind turbine generator, which includes the nacelle, rotor, tower and pad transformer, if any. (added April 7, 2011, Ordinance No. 1-11)

**Yard:** The required open space on a lot which space is unoccupied and unobstructed from the lowest general ground level of the lot, graded or otherwise, to the open sky by any structure or building or portion thereof except for permitted obstructions listed in this Ordinance. The size of a required yard shall be measured as the shortest distance between the structure and lot line. A lot shall have one front yard, two side yards and one rear yard. (amended December 1, 1994, Ordinance no. 4-94)

**Yard, Front:** A yard extending along and across the entire length of a front lot line and back to a line drawn parallel with such front lot line at a distance therefrom equal to the required front yard depth. For corner lots, one of the abutting streets, for purposes of this Ordinance, shall be designed as the frontage street in order to establish the front lot line and, accordingly, the front yard. All other yards are established by definition once the front yard is fixed. Note, although the front or main door of a building need not be located on the façade facing the designated front yard, any ambiguity regarding the establishment of the front yard shall be resolved according to the location of the said front or main door, mailing address and/or the front façade of the building in question. (amended December 1, 1994, Ordinance No. 4-94)

**Yard, Rear:** A yard extending along and across the entire length of a rear lot line and back to a line drawn parallel with such rear lot line at a distance therefrom equal to the required rear yard depth. Note, the rear yard and side yards overlap. (amended December 1, 1994, Ordinance No. 4-94)

**Yard, Side:** A yard extending along and across the entire length of a side lot line and back to a line drawn parallel with such side lot line at a distance therefrom equal to the required side yard width. Note, the side yard shall begin where the front yard ends and shall extend to the rear lot line; the side yards and rear yard overlap. (amended December 1, 1994, Ordinance No. 4-94)

**Zoning Certificate:** The written authorization issued by the Zoning Officer for the use of land, or buildings, or other structures.

**Zoning Hearing Board:** That board assigned the duties of judging various appeals of persons aggrieved by the interpretation of the terms of this Ordinance.

**Zoning Map:** The map containing the zoning districts of McKean Township, Erie County, Pennsylvania, together with all amendments subsequently adopted.

**Zoning Officer:** That individual authorized by the Board of Supervisors to be the Administrator of the day-to-day application of the provisions contained in this Ordinance.

**Zoning Permit:** A written authorization issued by the Zoning Officer in accordance with this Ordinance and/or other ordinances and regulations, indicating that the proposed use or the proposed building, structure, and/or alteration and the proposed use thereof comply with the terms of this Zoning Ordinance. No Building Permit shall be issued by a Code Administrator until the owner obtains a Zoning Permit. (amended July 7, 2005, Ordinance No. 3-05)



## **ARTICLE III—AUTHORITY AND GENERAL PROCEDURE**

### **Section 300—Grant of Power**

Pursuant to the authority contained in Act 247 of the Commonwealth of Pennsylvania and for the purpose of promoting health, safety, morals, or the general welfare, the Supervisors of McKean Township are hereby empowered to regulate and restrict height, number of stories, and size of buildings and other structures, their construction, alteration, extension, repair, maintenance and all facilities and services in or about such buildings and structures and percentage of lot that may be occupied, the size of yards, courts and other open spaces, the density of population, and the location and use of buildings, structures, and land for trade, industry, residence or other purposes, and may also establish and maintain building lines and set back building lines upon any or all public roads or highways.

### **Section 301—Procedure for Establishing Districts**

- (A) For any or all said purposes, the Supervisors may divide the township into districts, of such number, shape and area as may be deemed best suited to carry out the purpose of this article. Within such districts, it may regulate and restrict the erection, construction, reconstruction, alteration, repair or use of buildings, structures or land. All such regulations shall be uniform for each class or kind of building throughout each district, but the regulations in one district may differ from those in another district.
  
- (B) The Board of Supervisors may from time to time on its own motion or petition, after a public notice and hearing, amend the regulation and districts herein established, but no amendment shall become effective unless first submitted to the Planning Commission thirty (30) days prior to the hearing on such amendment and to the Erie County Department of Planning thirty (30) days prior to the hearing on such amendment to provide the agencies an opportunity to submit recommendations. If, after any public hearing held upon an amendment, the proposed amendment is revised to include land previously not affected by it, the Board of Supervisors shall hold another public hearing, pursuant to public notice, before proceeding to vote on the amendment.

**ARTICLE IV—ESTABLISHMENT OF DISTRICTS**

**Section 400—Establishment of Districts**

For the purpose of applying the regulations, restrictions and provisions of this Ordinance, the Township of McKean is hereby divided into the following zoning districts:

“A-1”	CONSERVATION DISTRICT
“R-1”	RURAL RESIDENTIAL DISTRICT
“R-2”	SUBURBAN RESIDENTIAL DISTRICT
“B-1”	HIGHWAY/PLAZA COMMERCIAL DISTRICT
“I-1”	INDUSTRIAL DISTRICT
“FP”	FLOOD PLAIN DISTRICT

**Section 401—Zoning Map** (amended October 13, 1988, Ordinance No. 5-88); (amended June 27, 1989, Ordinance No. 1-89); (amended October 5, 1989, Ordinance No. 3-89); (amended March 4, 1993, Ordinance No. 1-93); (amended December 1, 1994, Ordinance No. 4-94); (amended June 6, 1996, Ordinance No. 1-96); (amended April 2, 1998, Ordinance No. 1-98); (amended January 7, 1999, Ordinance No. 1-99); (amended August 22, 2000, Ordinance No. 3-00); (amended June 1, 2006, Ordinance No. 3-06); (amended April 5, 2007, Ordinance No. 3-07); (amended July 3, 2008, Ordinance No. 3-08); (amended July 5, 2007, Ordinance No. 6-07); (amended April 2, 2009, Ordinance No. 2-09)

The boundaries of the zoning districts are hereby established on the McKean Township Zoning Map. This map, together with all explanatory matters relative to same, shall be kept at the Township offices. The Zoning Officer shall make changes to this map, after the same are duly approved by the McKean Township Supervisors. (amended May 24, 1995, Ordinance No. 1-85); (amended July 3, 1997, Ordinance No. 3-97)

**Section 402—Boundaries**

Where uncertainty exists as to the boundaries of the districts as shown on the McKean Township Zoning Map, the following rules shall apply: (amended July 3, 1997, Ordinance No. 3-97)

- (A) Boundaries indicated as approximately following the center-lines of streets, highways, or alleys shall be construed to follow such center-line.
- (B) Boundaries indicated as approximately following platted lot lines, shall be construed to follow such lines.
- (C) Boundaries indicated as approximately following municipal limits, shall be construed to follow such municipal limits.

- (D) Boundaries indicated as parallel to or extensions of features indicated in subsections (A) through (C) of Section 402 shall be so construed. Distances not specifically indicated on the McKean Township Zoning Map shall be determined by the scale on the map. (amended May 24, 1985, Ordinance No. 1-85)
- (E) Where physical or cultural features existing on the ground are at variance with those shown on the McKean Township Zoning Map or in other circumstances not covered by subsections (A) through (D) of Section 402, the Zoning Hearing Board shall interpret the district boundaries. (amended May 24, 1985, Ordinance No. 1-85)
- (F) In unsubdivided land and where a district boundary, unless the same is indicated by dimensions shown on the map, shall be determined by the use of the scale appearing thereon.

**Section 403—Zoning of Annexed Areas**

Any area annexed to the township after the effective date of this ordinance shall immediately upon such annexation be automatically classified as an “R-1” Rural Residential District if such area is not zoned, unless or until a zoning plan for said area has been adopted by the township supervisors.

## ARTICLE V—APPLICATION OF REGULATIONS

### Section 500—Use of Property

No building or land shall hereafter be used or occupied and no building or part thereof shall be erected, moved or altered unless in conformity with the regulations herein specified for the district in which it is located.

### Section 501—Restrictions

- (A) No building shall hereafter be erected or altered:
  - (1) To exceed the height:
  - (2) To accommodate a number of families:
  - (3) To occupy a greater percentage of lot area:
  - (4) To have narrower or smaller rear yards, front yards, or side yards than are specified herein for the district in which such building is located.
- (B) No part of a yard or other open space required about any building for the purpose of complying with the provisions of this Ordinance shall be included as a part of a yard or other open space similarly required for another building.
- (C) No lot shall be reduced in area so that yards, lot area per dwelling unit, lot width, or other requirements of this Ordinance are not maintained, unless such reduction is by duly constituted authority for the public purpose.
- (D) A lot of record shall contain **not** more than one dwelling (whether the dwelling is single family, two-family, or multi-family as defined herein). (added May 3, 2001, Ordinance No. 6-01)

## **ARTICLE VI—SUPPLEMENTARY REGULATIONS**

### **Section 600—Non-Conforming Uses**

- (A) Any non-conforming use, whether agricultural, residential, commercial, or industrial, may be continued but may not be extended or expanded or changed unless to a conforming use, except as permitted by the Zoning Hearing Board in accordance with the provision of this Ordinance.
- (B) Any non-conforming structure, whether located in an agricultural, residential, commercial, or industrial zoning district, damaged by fire, flood, explosion or other casualty may be reconstructed and used as before if such reconstruction is performed within twelve (12) months of such casualty, and if the restored structure covers no greater area and contains no greater cubic content than before such casualty. If approved by the Zoning Hearing Board, a reconstructed structure may exceed its original lot coverage and cubic content but must meet minimum yard requirements of the zoning district(s) in which the structure is located and must meet off-street parking and loading requirements of this Ordinance.
- (C) In the event that any non-conforming use, whether agricultural, residential, commercial, or industrial, conducted in a structure or otherwise, ceases, for whatever reason, for a period of one (1) year, such non-conforming use shall not be resumed and any future use shall be in conformity with the provisions of this Ordinance.
- (D) The non-conforming use, whether agricultural, residential, commercial, or industrial, of a building may be extended throughout those parts thereof which were manifestly arranged or designed for such use at the time of adoption of this Ordinance. A non-conforming building or structure, whether located in an agricultural, residential, commercial, or industrial zoning district, may, with the approval of the Zoning Hearing Board, be extended or enlarged but must meet minimum yard requirements of the zoning district(s) in which the structure is located and must meet the off-street parking and loading requirements of this Ordinance.
- (E) If no structural alterations are made, a non-conforming use, whether agricultural, residential, commercial, or industrial, of a building may be changed to another non-conforming use of the same or more restricted classification.
- (F) Nothing contained herein shall require any change in the overall layout, plans, construction, size, or designated use of any development,

building, structure or part thereof, for which official approval and/or required permits have been properly granted.

- (G) Any structure or portion thereof, whether located in an agricultural, residential, commercial, or industrial zoning district, declared unsafe by a proper authority may be restored to a safe condition.
- (H) Once changed to a conforming use, whether agricultural, residential, commercial, or industrial, no structure or land shall be permitted to revert to a non-conforming use.
- (I) Whenever the boundaries of a zoning district shall be changed so as to transfer an area from one zoning district to another zoning district of a different classification, this Article shall also apply to any uses, whether agricultural, residential, commercial, or industrial, which thereby become non-conforming.
- (J) Whenever there is a conflict between this Article VI and Article VIII, Flood Plain Regulations, the provisions of Article VIII shall control.

**Section 601—Sanitary Landfills** (amended October 13, 1987, Ordinance No. 4-87); (amended November 10, 1988, Ordinance No. 6-88)

- (A) Sanitary landfills shall be a conditional use, provided that the following conditions are met, as well as those having to do with other conditional uses:
  - (1) All plans for sanitary landfills shall be approved and controlled by the Pennsylvania Department of Environmental Protection (DEP), Bureau of Land Protection and Reclamation, Division of Solid Waste Management, and in conformance with the Pennsylvania Solid Waste Management Act, Act 97. Operators of sanitary landfills shall file with the McKean Township Supervisors written proof that they have met all permitting requirements of DEP.
  - (2) The operators of sanitary landfills shall obtain a permit from the McKean Township Supervisors. Such permit shall be non-transferable, shall be for a term of one (1) year, and shall be subject to the fees set in a resolution establishing fees as set by the Board of Supervisors. Permits shall be renewed annually. Renewal permit applications shall be submitted to the Board of Supervisors not less than sixty (60) days before the expiration date of the permit in effect. Copies of all permits shall be filed with the DEP and the EPA. Prior to initial permit approval, the following conditions must be met:

- (a) A buffer zone of two hundred (200) feet from all public right-of-ways and four hundred (400) feet from all dwellings, schools, churches, hospitals, and similar residential uses.
- (b) A barrier of natural forestry at a width of one hundred (100) feet and an eight (8) foot high cyclone fence with panel weaving or similar solid fencing shall parallel all public right-of-ways and adjacent properties for purposes of preventing the passing of wind blown litter and preventing direct visibility of the working area from public right-of-ways and adjoining properties.
- (c) The barrier shall be at a minimum distance of seventy-five (75) feet from all operations, and the area between the work area and barrier shall consist of a natural cover of vegetation or forestry. This strip shall not be a barren soil. The barrier shall also be at a minimum of two hundred (200) feet from any adjacent properties or public right-of-ways.
- (d) The project shall consist of no more than two (2) access routes, unless the landfill property borders three (3) or more public right-of-ways. In such an event, approval by the McKean Township Supervisors will be necessary to secure an additional access route.
- (e) A bond will be filed with the McKean Township Supervisors, at an amount deemed necessary by the Board of Supervisors, to provide for final covering and reclamation as specified under the provisions set in accordance with the approval of the DER sanitary landfill permit.
- (f) The operator shall submit to the Board of Supervisors for final approval a plan for the restoration of the landfill area, which shall include anticipated future use of the restored land; the proposed final topography indicated by contour lines of no greater interval than five (5) feet, steps which will be taken to conserve the topsoil, and the location of future roads, drainage courses, and other improvements contemplated. When the operator has performed all requirements contained in the restoration plan, he will be issued a written certificate by the Zoning Officer that the restoration is complete and in compliance with the plan.

- (3) The operator shall be permitted to operate the landfill on all days of the week, except Sunday and the following holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day.
- (4) The hours of operation of the sanitary landfill shall be as follows:
  - (a) Monday through Friday - 7:00 A.M. to 5:00 P.M. for the receipt of incoming waste.
  - (b) Monday through Friday - 7:00 A.M. to 7:00 P.M. for backfilling.
  - (c) Saturday - 7:00 A.M. through 12:00 P.M. for the receipt of incoming waste.
  - (d) Saturday - 7:00 A.M. through 2:00 P.M. for backfilling.
- (5) The operator shall carry an insurance policy providing complete third party comprehensive liability and property damage insurance, covering not only the operator but also McKean Township, the limits of which shall be not less than one million dollars (\$1,000,000.00) personal liability and five hundred thousand dollars (\$500,000.00) property damage, and shall furnish the proper certificates of insurance coverage to McKean Township.
- (6) Any violation of these specifications shall be sufficient cause for the immediate cancellation of the permit.
- (7) Any person, firm, or corporation who shall violate any provision of this Ordinance shall, upon conviction thereof, be sentenced to pay a fine of not more than three thousand dollars (\$3,000.00) per day and/or imprisonment for a term of ninety (90) days per offense.

#### **Section 602—Application of Yard Regulations**

- (A) Lots, which abut on more than one street, shall provide the required front yards along every street.
- (B) All structures, whether attached to the principal structure or not, and whether open or enclosed, including porches, carports, balconies or platforms above normal grade level, shall not project into any minimum front, side, or rear yard.



- (C) A wall or fence six feet or under in height, or higher if a retaining wall, and paved terraces without walls, roofs or other enclosure, may be erected within the limits of any yard.
- (D) Non-residential buildings hereafter constructed or uses hereafter established shall not be located or conducted closer to any lot line in any of the residential districts than the distance specified in the following schedule:

<u>Use</u>	<u>Minimum Side or Rear Yard</u>
Off-street parking spaces and access drives for non-residential uses	20 feet
All other non-residential uses or structures	40 feet

**Section 603—Structures** (amended August 12, 1986, Ordinance No. 1-86)

- (A) Temporary structures used in conjunction with construction work shall be permitted only during the period that the construction work is in progress. Permits for temporary structures shall be issued for a period of one year.
- (B) Structures 100 square feet or smaller shall not require a Zoning Permit. Structures larger than 100 square feet shall require a Zoning Permit. Refer to the Uniform Construction Code for Building Permit requirements and exemptions. (amended July 7, 2005, Ordinance No. 3-05)
- (C) Temporary occupancy in the basement or foundation of a building or structure shall be permitted in accordance with the Uniform Construction Code, pursuant to a temporary Certificate of Occupancy issued by a Code Administrator. The Code Administrator shall provide a copy of any such temporary Certificate of Occupancy to the Zoning Officer within five (5) days of the date of its issuance. (amended July 7, 2005, Ordinance No. 3-05)
- (D) Swimming pools having one hundred (100) square feet or less in water surface area shall not require a Zoning Permit. Swimming pools having more than one hundred (100) square feet in water surface area shall require a Zoning Permit. Refer to the Uniform Construction Code for Building Permit requirements for swimming pools. (added December 1, 1994, Ordinance No. 4-94, amended July 7, 2005, Ordinance No. 3-05)
- (E) Patios and/or decks having three hundred (300) square feet or less in surface area (excluding stairs) shall not require a Zoning Permit. Patios

and/or decks having over three hundred (300) square feet in surface area (excluding stairs) shall require a Zoning Permit. Refer to the Uniform Construction Code for Building Permit requirements for patios and/or decks. (added December 1, 1994, Ordinance No. 4-94, amended July 7, 2005, Ordinance No. 3-05)

- (F) Ponds shall not require a Zoning Permit. (added December 1, 1994, Ordinance No. 4-94, amended July 7, 2005, Ordinance No. 3-05)

#### **Section 604—Height Measurement**

Measurement of height shall be the vertical height from the average elevation of finished grade at the front of the structure.

- (A) In case of a flat roof structure--the highest point of coping.
- (B) In case of mansard roof structures--deck line of roof.
- (C) In case of gable or hipped roof--average height of roof.
- (D) A habitable attic shall be counted as a story.

#### **Section 605—Height Limitations** (amended December 6, 1990, Ordinance No. 4-90)

- (A) No building or structure shall exceed the maximum height limits permitted in the applicable zoning district, unless approved by the Zoning Hearing Board. The Zoning Hearing Board may authorize a variance to the height regulations in any zoning district only if all of the following conditions are met:
  - (1) All front, side, and rear yard depths are increased one (1) additional foot for each additional one (1) foot of height of the building or structure; and
  - (2) The increase in height of the building or structure does not create a hazard to an established airport; and
  - (3) The increase in height of the building or structure does not create a hazard to the general health, safety, and welfare of the public.
- (B) Church spires, belfries, monuments, tanks, water and fire towers, cooling towers, stage towers and scenery lofts, ornamental towers and spires, chimneys, elevator bulkheads, smoke stacks, silos, conveyors, and flagpoles are all structures which are exempt from height limitations,

**provided** the following conditions are met: (amended April 2, 1998, Ordinance No. 1-98)

- (1) Such structure does not exceed eighty (80) feet in height above the average ground level at its base; and
  - (2) The height of such structure does not create a hazard to an established airport; and
  - (3) The height of such structure does not create a hazard to the general health, safety, and welfare of the public.
- (C) No structure, classified as exempt under subsection (B) of this section, shall exceed eighty (80) feet in height above the average ground level at its base, unless approved by the Zoning Hearing Board. The Zoning Hearing Board may authorize a variance for such a structure only if all of the conditions set forth in subsections (A)(1), (A)(2), and (A)(3) of this section are met.
- (D) Height limitations shall not apply to any communications antennas or communications towers. (added April 2, 1998, Ordinance No. 1-98)

**Section 606—Off-Street Loading and Parking**

Off-street loading and parking spaces shall be provided in accordance with the specifications in this section in all districts whenever any new use is established or an existing use is enlarged.

- (A) Off-street Loading: Every building which requires the receipt or distribution by vehicles of material or merchandise shall provide off-street loading berths in accordance with the table below:

**Off-Street Loading Space Requirements**

<u>Uses</u>	<u>Square Ft. of Floor Area</u>	<u>Required Off-Street Loading Berths</u>
1. Schools	15,000 or more	1
2. Undertakers and Funeral Parlors	5,000 For each additional 5,000 Or major fraction thereof	1 1 (additional)
3. Hotels and Offices	10,000 or more	1

4.	Commercial, Wholesale, Manufacturing and Storage	10,000-25,000 25,000-40,000 40,000-60,000 60,000-100,000 For each additional 50,000 or major fraction thereof	1 2 3 4 1 (additional)
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(B) Each loading space shall not be less than ten (10) feet in width, thirty-five (35) feet in length, and fourteen (14) feet in height. No roadways, sidewalks or alleyways shall be blocked by off-street loading berths.

(C) Size and Access: Each off-street parking space shall have:

(1) An area of not less than 180 square feet exclusive of access drives or aisles and be not less than 9 feet by 20 feet nor more than 10 feet by 18 feet. Except in the case of dwellings, no parking area shall contain less than three spaces. There shall be adequate ingress and egress to all parking spaces. Where a lot does not abut on a public or private alley or easement of access, there shall be provided an access drive leading to the parking or storage areas or loading spaces. Such access drive shall not be less than ten (10) feet wide. Access to off-street parking areas shall be not more than two well-defined locations, and in no case shall there be unrestricted access along the length of a street or alley.

(2) Number of Parking Spaces Required: The number of off-street parking spaces required is set forth below. Where the use of the premises is not specifically mentioned, requirements for similar uses shall apply.

**Off-Street Parking Space Requirements**

<u>Use</u>	<u>Required Parking Space</u>
1. Automobile Laundry	5 for each wash line
2. Automobile Sales & Service Garages	1 for each 400 square feet of floor area
3. Banks or Professional Offices	1 for each 200 square feet of floor area
4. Churches and Schools	1 for each 3.5 seats in an auditorium or 1 for each 17 classroom seats, whichever is greater
5. Bowling Alleys	7.5 for each alley
6. Community Buildings & Social Halls	1 for each 100 square feet of floor area

7. Driving Ranges & Miniature Golf	1 for each tee
8. Dwellings	
A. Single-Family	1 for each family
B. Two-Family	1.5 for each family
C. Multiple-Family	2 for each family
9. Food Supermarkets	1 for each 100 feet of floor area
10. Funeral Homes, Mortuaries	5 for each parlor
11. Furniture or Appliance Stores	1 for each 200 square feet of floor area
12. Hospitals, Nursing or Convalescing Homes	1 for each 2 beds
13. Hotels and Motels	1 for each living or sleeping unit
14. Manufacturing Plants, Research or Testing Laboratories, Bottling Plants	1 for each 500 square feet of floor area
15. Medical or Dental Offices	5 for each doctor or dentist
16. Restaurants, Taverns & Night Clubs	1 for each 2.5 seats
17. Retail Stores and Shops	1 for each 200 square feet of floor area (amended July 21, 2005, Ord. No. 4-05)
18. Rooming Houses & Dormitories	1 for each 2 bedrooms
19. Service Stations	3 for each service bay
20. Sports Arenas, Auditoriums, Theaters; Assembly Halls	1 for each 3.5 seats
21. Trailer or Monument Sales	1 for each 2,500 square feet of lot area
22. Wholesale Establishments or Warehouses	1 for each 2 employees on maximum shift. The total parking area shall not be less than 25 percent of the building floor area

- (3) Location of Parking Areas: Required parking spaces shall be located on the same lot with the principal use. The Zoning Hearing Board may permit parking spaces to be located not more than four hundred (400) feet distant from the lot of the principal use if located in the same zoning district as the principal use, and

the Board finds that it impractical to provide parking on the same lot with the principal use.

- (4) Screening and Landscaping: Off-street parking areas for more than five vehicles, and off-street loading areas, shall be effectively screened on each side which adjoins any residential district.
- (5) Minimum Distances and Setbacks: No off-street loading or parking area for more than five vehicles shall be closer than twenty (20) feet to any adjoining property containing a dwelling, school or hospital and in accordance with Article VI, Section 602(C) of this Ordinance.
- (6) Surfacing: With the exception of dwellings and drive-in theaters, all parking areas shall have a bituminous (asphalt) or concrete paved surface, graded and drained to dispose of all surface water and designed to provide for orderly and safe loading and parking, and shall, where applicable, comply with the Stormwater Management Ordinance of McKean Township. (amended July 7, 2005, Ordinance No. 3-05)
- (7) Lighting: Any lighting used to illuminate off-street parking or loading areas shall be arranged so as to reflect the light away from adjoining land of any residential district.

**Section 607--Manufactured Homes** (amended August 12, 1986, Ordinance No. 1-86); (amended November 10, 1988, Ordinance No. 6-88); (amended July 7, 2005, Ordinance 3-05)

- (A) Manufactured Homes not located in a Manufactured Home Park are permitted uses in the A-1 District and shall comply with the following requirements:
  - (1) The Manufactured Home shall have been newly built no earlier than two (2) years prior to the date of application for a Zoning Permit.
  - (2) The Manufactured Home shall be permanently affixed to a continuous solid foundation wall constructed of brick, block, or poured concrete around perimeter and extending below the frostline.
  - (3) The minimum size shall be not less than 1,200 square feet of heated living area.
  - (4) The axles and hitch shall be removed from the Manufactured Home.

- (5) The Manufactured Home shall have permanent hookups to a sanitary sewage disposal system, a source of potable water, and electric utility.
- (B) Manufactured Homes not located in a Manufactured Home Park and built more than two (2) years prior to the date of application for a Zoning Permit may be authorized by the Board of Supervisors as a Conditional Use in an A-1 District if they comply with the following requirements:
- (1) Condition evidenced by color photographs and/or visual inspection by a member of the approving authority that its placement would not detract from or degrade the area where it is to be placed. Age is a factor, however not a limiting factor as is appearance and condition.
  - (2) The Manufactured Home shall be set on a foundation of brick, poured concrete, or concrete blocks extending below the frost line, and finished with aluminum or vinyl skirting.
  - (3) The minimum size shall be not less than 1,000 square feet of heated living area.
  - (4) The axles and hitch shall be removed from the Manufactured Home.
  - (5) The Manufactured Home shall have permanent hookups to a sanitary sewage disposal system, a source of potable water, and electric utility.
- (C) Manufactured Homes not located in a Manufactured Home Park may be permitted by the Board of Supervisors as a Conditional Use in an R-1 Rural Residential District and R-2 Suburban Residential District if they Comply with the following requirements
- (1) The Manufactured Home shall have been newly built **no earlier** than two (2) years prior to the date of application for a Zoning Permit.
  - (2) The Manufactured Home shall be permanently affixed to a continuous solid foundation wall constructed of brick, block, or poured concrete around the perimeter and extending below the frost line.
  - (3) The minimum size shall be not less than 1,200 square feet of heated living area.

- (4) The axles and hitch shall be removed from the Manufactured Home.
- (5) The Manufactured Home shall have permanent hookups to a sanitary sewage disposal system, a source of potable water, and electric utility.
- (D) Modular Homes are permitted uses in the A-1 Conservation District, R-1 Rural Residential District, and R-2 Suburban Residential District.

**Section 608—Manufactured Home Parks** (amended July 7, 2005, Ordinance No. 3-05)

- (A) Manufactured Homes, Mobile Homes, and Modular Homes located in Manufactured Home Parks shall contain only one (1) Dwelling Unit, and shall meet all other applicable provisions of this Zoning Ordinance.
- (B) No Manufactured Home Park shall have an area of less than five (5) acres.
- (C) Minimum yard and area requirements for Manufactured Home Parks shall be:
  - (1) Minimum lot area shall be six thousand (6,000) square feet.
  - (2) Minimum lot width shall be fifty (50) feet.
  - (3) Minimum front set-back shall be:
    - (a) If on a public road, the same as required for that road in its zoning district.
    - (b) If on a roadway within a Manufactured Home Park, thirty-five (35) feet from the center line of the right-of-way.
  - (4) Minimum rear or back yard set-back shall be fifteen (15) feet from the lot line.
  - (5) Minimum side yard set-back shall be twenty (20) feet for both sides and a minimum of eight (8) feet for one side, and at least twenty (20) feet between Manufactured Homes, Mobile Homes, and Modular Homes at the narrowest point.
  - (6) Minimum Home size shall be 780 square feet of heated living space, as measured by the overall outside dimensions of the Home.
  - (7) No home shall exceed one (1) story in height.



- (D) Streets and Sites: All Manufactured Home Park sites, and the streets and Manufactured Home Lots contained therein are to comply with the provisions of the subdivisions of the Subdivision Ordinance of McKean Township. Without limiting the foregoing, the following shall apply:
- (1) The site must be high ground with adequate gradient for surface drainage.
  - (2) Each Lot must be graded so that surface water from the Homes, their stands (as defined below), patios, service buildings, etc., will drain away from the improvements to prevent flooding and erosion.
  - (3) Approved and adequate storm sewer systems must be provided to carry off surface water from the Park.
- (E) Off-Street Parking: Off-street parking space shall be provided at the rate of at least one automobile space for each Dwelling Unit.
- (F) Manufactured Home, Mobile Home, and Modular Home Stands:
- (1) The stand where the Home is located, shall be large enough to safely accommodate the specific Home in its entirety. (amended December 1, 1994, Ordinance No. 4-94)
  - (2) Each stand shall be surfaced with gravel or crushed stone, concrete or bituminous asphalt paving to provide a stable base for the Home to control weeds.
  - (3) The stand shall provide an adequate foundation for the placement of tie-down anchors to prevent Homes from lifting up, rotating, sliding or overturning.
- (G) No Manufactured Home, Mobile Home, or Modular Home shall be closer than forty (40) feet to an adjacent property containing a residence, or to any property zoned R-1 or R-2 Residential.
- (H) No less than ten percent (10%) of the gross area of the Park must be improved for recreational activities for the residents of the Park.
- (I) The Park shall be appropriately landscaped and fully screened from adjacent property in the R-1 and R-2 Residential Districts with a visually solid fence or wall six (6) feet in height, maintained in good condition or with suitable plantings of similar height with similar screening characteristics.

- (J) Manufactured Home Parks are subdivisions as defined in the Pennsylvania Municipalities Planning Code Act 247, and therefore must be approved via the subdivision review and approval process. Refer to McKean Township Subdivision and Land Development Regulations.
- (K) Accessory structures or uses which may be permitted are: Office (for lot rentals and/or manufactured home sales within park only), swimming pool, recreational center, and maintenance structure(s). (added May 1, 2008 Ordinance No. 2-08)

**Section 609--Signs**

- (A) In any district all signs except those maintained pursuant to and in the discharge of any law, ordinance, governmental regulation or function shall comply with the following general requirements:
  - (1) They shall not be illuminated in any manner which will cause undue distraction, confusion or hazard to vehicular traffic.
  - (2) They shall not project over public right-of-way.
  - (3) They shall meet all requirements of the Pennsylvania Outdoor Beautification Act No. 160 when located on any Federally designated primary road.
- (B) No sign shall be permitted in residential districts except as herein provided:
  - (1) One sign not exceeding six (6) square feet in area will be permitted which announces the name and professional activity of the occupant of the premises on which said sign is located.
  - (2) One bulletin board not exceeding forty (40) square feet in area will be permitted in connection with any church, school or similar public structure.
  - (3) One temporary real estate or construction sign not exceeding eight (8) square feet in area will be permitted on the property being sold, leased, or developed. Such sign shall be removed promptly when it has fulfilled its function.
- (C) In the commercial and industrial districts, no sign shall be permitted except as herein provided: (amended August 1, 1996, Ordinance No. 2-96)

- (1) One free-standing business sign per lot in connection with any legal commercial or industrial use or structure will be permitted on the premises of the business provided said sign contains no information beyond the name, symbol, and nature of the business activity conducted on the premises. The maximum area per free-standing sign shall not exceed fifty (50) square feet in area. A double-faced sign shall count as a single sign. A shopping center or business park may have one additional identification sign, which shall not exceed thirty-six (36) square feet in area, located along each street frontage that has an entrance open for use of the general public for the name of the complex and each individual business unit.
- (2) The aggregate total sign surface area per lot, including both permanent and temporary signs, but not including any permitted free standing sign and high rise sign, shall not exceed two hundred twenty (220) square feet.
- (3) No sign, or any part thereof, including but not limited to its braces, supports or illumination devices, shall exceed a height of thirty (30) feet. For purposes of this subsection, height shall be measured from grade level directly below the face of the sign to the highest part of the sign, including but not limited to its braces, supports or illumination devices.
- (4) One attached business sign on the surface of the building does not require a permit nor is it included in the area allowance, if said sign does not exceed forty-eight (48) square feet in area.
- (5) One high-rise sign structure shall be permitted on each premise only within a 1,000-foot radius of the center of the intersections of Route 832/I-90 and West Road/I-79.
  - (a) A number of signs may be permitted on each structure which may only contain the name, symbol, and nature of the businesses or services provided within the 1,000-foot radius, including off-premise signs relating to those businesses or services only within the 1,000-foot radius as noted in subsection (C)(5) above, which is provided as an incentive to reduce the number of structures at these interchanges.
  - (b) Sign structure shall not project in a public right-of-way.
  - (c) No high rise sign structure may be placed in such a position as to block visibility of an existing high rise sign.

- (d) Must have all required Federal and State permits.
  - (e) Must comply with State Act 160, Outdoor Advertising Control Act of 1971, and all rules and regulations hereunder.
  - (f) The maximum area per sign shall not exceed four hundred (400) square feet in area. A double-faced sign shall count as a single sign.
- (D) In addition to the requirements of Section 609, every sign referred to herein must be constructed of durable materials, kept in repair and not allowed to become dilapidated. Temporary signs, including signs for political advertisement, shall be removed within ten (10) days of the date when the circumstances leading to its erection no longer apply.

**Section 610--Mineral Excavations--Exclusive of Oil and Gas Extraction**

Excavation of sand, gravel, coal, liquid calcium chloride (salt brine) or other material from the ground shall be considered a temporary use, and may be permitted as a conditional use if approved by the Supervisors. All mineral excavations shall comply with the following minimum requirements and any other measures that the Supervisors might specify to protect the public interest. A zoning certificate shall be required for each property.

- (A) All operations must be conducted no closer than one hundred (100) feet to an adjacent property, unless under common lease or ownership, and no closer than one hundred (100) feet to any road right-of-way line.
- (B) All operations must be conducted no closer than two hundred (200) feet to an existing dwelling, school, hospital or similar residential use.
- (C) The operator shall file with the Supervisors a plan showing the location of adjacent properties, roads and natural features.
- (D) The operator shall submit to the Supervisors for approval, a plan for the restoration of the area to be mined, which shall include anticipated future use of the restored land, the proposed final topography indicated by contour lines of no greater interval than five (5) feet, steps which will be taken to conserve the topsoil, and the location of future roads, drainage course, or other improvements contemplated.
- (E) The operators shall file with the Zoning Officer written proof that they have met all registration and bonding requirements of the Pennsylvania Department of Environmental Protection. When the operator has performed all requirements contained in the restoration plan, he will be

issued a written certificate by the Zoning Officer that the restoration is complete and is in compliance with the plan.

**Section 611—Oil and Gas Drilling Operations**

Oil and gas shallow well operations shall be a permitted use in all districts provided the requirements of this section and Act 225 of 1955, the Pennsylvania Gas Operations, Well Drilling, Petroleum and Coal Mining Act, as amended are met.

- (A) No operation shall be conducted closer than one hundred (100) feet to an adjacent property, unless under common lease or ownership and no closer than one hundred (100) feet to any public right-of-way.
- (B) No operation shall be conducted closer than two hundred (200) feet to an existing dwelling, school, hospital, or similar residential use or water source for those uses.
- (C) A zoning certificate shall be required and issued by the Zoning Officer. No zoning certificate shall be issued until the following is submitted with the application for a zoning certificate:
  - (1) A copy of the permit from the Department of Environmental Protection for the operation and a copy of the well location map and notice of proposed or existing locating form as required by the Department of Environmental Protection.
  - (2) A performance and/or maintenance guarantee, which the Zoning Officer may require prior to permit issuance. The performance guarantee shall include at a minimum, but not be limited to, a provision for adequate protection from any adverse conditions which may result from the well drilling operation.

The maintenance guarantee shall contain at a minimum, but not be limited to, adequate protection from any damage to adjacent roads, water supplies, and other related property damage.

The performance and maintenance guarantees amount and time limit shall be established by a schedule adopted by resolution of the Township Supervisors.
- (D) The amount of the performance guarantee may be reduced by the Township Supervisors when the wells have been drilled in accordance with the Department of Environmental Protection permit and other conditions the Township Supervisors may have stated and when the field is in production.

- (E) The amount of maintenance guarantee may be reduced by the Township Supervisors when the wells have been plugged in accordance with Department of Environment Protection regulations.
- (F) As an addendum to the zoning application, the drilling company must submit to the Township Zoning Officer a plan accurately drawn to scale showing the location of all wells as referenced by the location of adjacent properties, roads, and natural features.

**Section 612—Home Occupations**

A home occupation shall be clearly incidental and secondary to the use of the dwelling unit for residential purposes. The following additional conditions shall be observed:

- (A) The occupation is customarily carried on in a dwelling unit; and (amended August 11, 1987, Ordinance No. 3-87)
- (B) The occupation is carried on by a member of the family residing in the dwelling unit, with no more than two employees outside the family; and
- (C) The occupation is carried on wholly within the principal structure; and (amended August 11, 1987, Ordinance No. 3-87)
- (D) There shall be no exterior display, exterior sign other than permitted by Section 609, no exterior storage of materials, and no exterior indication of the home occupation or variation from the residential character of the principal structure; and
- (E) No off-odor, noise, vibration, smoke, dust, heat or glare shall be produced; and
- (F) The occupation shall occupy no more than twenty (20) percent of the principal structure. (amended August 11, 1987, Ordinance No. 3-87)
- (G) The use shall comply with the Performance Standards specified in Section 617 of this Ordinance.

Home Occupations, by the nature of the investment or operation, have a pronounced tendency once started to rapidly increase beyond the limits permitted for home occupations and thereby impair the use and value of a residentially zoned area for residence purposes. Therefore, Home Occupations **shall not** include, but are **not** limited to automotive and body repair shops, beauty and barber shops containing more than one chair, and private instructions to more than five (5) students at a time. Their businesses shall be limited to the districts in which they are

specifically authorized as permitted uses, conditional uses, or uses by special exception. (added August 11, 1987, Ordinance No. 3-87)

Home Occupations may include, but are not limited to an art studio, dressmaking, professional office of a physician, dentist, lawyer, engineer, architect or accountant, real estate person, insurance person, barber, beautician, or teacher where that person is the resident of the premises.

### **Section 613—Junkyard and Similar Storage Areas (Including Automobile Wrecking)**

Junkyard shall comply with the following:

- (A) Junkyard in the “I-1” Industrial District shall be completely screened on all sides with a visually solid fence or wall at least eight (8) feet in height and not more than ten (10) feet in height.
- (B) All junk shall be stored or arranged so as to permit access by fire-fighting equipment and to prevent the accumulation of water, and with **no** junk piled to a height of more than six (6) feet, or the height of one vehicle.
- (C) No oil, grease, tires, gasoline, interiors of vehicles or other similar material shall be burned at any time.
- (D) Any junkyard shall be maintained in such a manner as to cause no public or private nuisance, nor to cause any offensive or noxious sounds or odors, nor to cause the breeding or harboring of rats, flies, or other pests.

### **Section 614—Water Recreation and Storage Areas**

Any public or private facility (exclusive of single-family residential facilities) such as swimming pools, swimming clubs, reservoirs, or sewage lagoons shall comply with the following regulations.

- (A) The facility must meet the yard requirements for the applicable district.
- (B) Before a permit shall be issued to the operator or owner of the facility, a plan shall be approved by the Board as to size of facility, proposed use, parking arrangement and the use of buildings on site, surrounding properties and their usage, and any other pertinent information, such as fences.

### **Section 615—Agriculture**

Agriculture uses shall comply with the following:

- (A) No building used for agricultural purposes may be erected within twenty (20) feet of the property line.
- (B) Intensively used facilities for animal raising and care, exclusive of pastures, including but not limited to such facilities as feed lots, runs, and pens, shall not be constructed within one hundred (100) feet of the property line.
- (C) Roadside stands for the sale of agricultural products shall be permitted providing:
  - (1) They are erected at least twenty-five (25) feet back from the nearest edge of the roadway surface.
  - (2) Parking spaces are provided off the road right-of-way.

### **Section 616—Drive-In Theaters**

Where possible, access shall be to minor roads, rather than highways, to reduce congestion and accidents. Theater screens shall be placed so that they are not visible from a highway or shall be screened with adequate fencing or planting. All parts of the theater shall be no closer than two hundred (200) feet to any land in the “R-1” and “R-2” Residential Districts, and all lights shall be directed away from the adjacent land.

### **Section 617—Performance Standards**

No use, land, or structure in any district shall involve any element or cause any conditions that may be dangerous, injurious, or noxious to any other property or persons in the Township. In cases involving performance standards, the Board may require a plan of the proposed construction or development, a description of machinery proposed, and techniques to be used; and the Board may obtain qualified expert consultants to testify as to whether a proposed use will conform to the performance requirements. The cost of such service shall be borne by the applicant. Furthermore, every use of land or structure in any district must observe the following performance requirements:

- (A) Fire Protection: Fire protection and fighting equipment acceptable to the Board of Fire Underwriters shall be readily available when any activity involving the handling or storage of flammable or explosive materials is carried on.



- (B) Electrical Disturbances: No activity shall cause electrical disturbances adversely affecting radio or other equipment in the neighboring area.
- (C) Noise: Noise which is determined to be objectionable because of volume or frequency, shall be muffled or otherwise controlled, except fire sirens and related apparatus used solely for public purposes, which shall be exempt from this requirement.
- (D) Smoke: The maximum amount of smoke emission permissible shall be determined by use of the Standard Ringelmaan Chart issued by the U.S. Bureau of Mines. No smoke of a shade darker than No. 2 will be allowed.
- (E) Odors: In any district except the Industrial District, no malodorous gas or matter shall be permitted which is discernible on any adjoining lot of property. This shall not apply to any form of fertilizer, agricultural products or by-products, in districts where agriculture is a permitted use.
- (F) Air Pollution: No pollution of air by fly-ash, dust, vapors, or other substance shall be permitted which is harmful to the health, or to animals, vegetation, or other property.
- (G) Glare: Lighting devices which produce objectionable direct or reflected glare on adjoining properties or through thoroughfares shall not be permitted.
- (H) Erosion: No erosion by wind or water shall be permitted which will carry objectionable substances onto neighboring properties.
- (I) Water Pollution: The method for discharging wastes to public sewers, drains, or watercourses shall be acceptable to the Pennsylvania Department of Environmental Protection.

**Section 618—Walls and Fences** (amended August 1, 1991, Ordinance No. 4-91)

- (A) Height Restrictions: Subject to the following conditions, fences or walls may be erected within the boundaries of any lot or yard:
  - (1) The height of any fence or wall shall not exceed the following heights:
    - (a) Six (6) feet in a residential district;
    - (b) Eight (8) feet in a commercial district;

- (c) Ten (10) feet in an industrial district.
- (2) Exceptions: Under the following circumstances, the height of any fence or wall may be increased to the heights set forth in this subsection:
- (a) The height of any fence or wall shall not exceed eight (8) feet when all the following conditions are met:
    - (i) The lot or yard upon which the fence or wall is to be erected is in a residential district (the “subject lot or yard”); and
    - (ii) The fence or wall is erected no closer than one(1) foot but no greater than fifteen (15) feet from the boundary line of the subject lot or yard; and
    - (iii) The subject lot or yard abuts a lot or yard in a commercial district; or
    - (iv) The subject lot or yard abuts a lot or yard in a residential district which has upon it a non-conforming use.
  - (b) The height of any fence or wall shall not exceed ten (10) feet when all of the following conditions are met:
    - (i) The lot or yard upon which the fence or wall is to be erected is in a residential district (the “subject lot or yard”); and
    - (ii) The fence or wall is erected no closer than one (1) foot but no greater than fifteen (15) feet from the boundary line of the subject lot or yard; and
    - (iii) The subject lot or yard abuts a lot or yard in an industrial district; or
    - (iv) The subject lot or yard abuts a lot or yard in a commercial district which has upon it a non-conforming industrial use; or
    - (v) The subject lot or yard abuts a lot or yard in a residential district which has upon it a non-conforming industrial use.

- (c) Retaining walls and/or private terraces may be erected to a height of no greater than fifty percent (50%) increase of the heights specified for walls or fences for the particular district upon which the retaining wall and/or private terrace is erected. For purposes of this subsection, a retaining wall is meant as being a wall erected to retain either earth, rip-rap, water, any combination thereof, or other similar materials.
  - (d) Fences erected around tennis courts, basketball courts, backstops, and similar recreational facilities are exempt from any height limitations.
- (B) Multiple-Family Dwellings: Where any multiple-family dwelling abuts any single-family district, the owner of the multiple-family dwelling shall, before using said property, construct a fence or barrier not less than four (4) feet of such design, construction and location as to substantially impair passage by persons or pets from such multiple-family dwelling to and from such single-family use.
- (C) Junkyard Enclosures: Every junkyard existing at the time of the enactment of this Ordinance, shall be completely screened on all sides with a visually solid fence or wall eight (8) feet in height within one (1) year of enactment of this Ordinance.

**Section 619—Group Care and Family Care Facilities**

- (A) Family and group care facilities shall be a conditional use provided that the following conditions are met as well as those having to do with conditional uses:
- (1) That the Supervisors have conducted a hearing, open to the public and has been assured that:
    - (a) Certificates have been issued from the appropriate federal, state, and local agencies certifying that all applicable licenses, requirements and regulations have been complied with;
    - (b) That no family or group care facility shall be located within five hundred (500) feet of an adjoining zoning district or any residential structure regardless of whether the adjoining structure is within or outside McKean Township;

- (c) That no family or group care facility shall be located within one(1) mile of another family or group care facility;
- (d) The minimal lot area requirement shall be twenty thousand (20,000) square feet for facilities housing six or less individuals, and an additional two thousand (2,000) square feet for each additional resident.

### **Section 620—Driveway Approaches**

In any district, driveway approaches shall be provided to serve off-street or service areas, in accordance with the following regulations:

- (A) No approach or curb cut shall begin closer to an intersecting street than the street line extended of such intersecting street or fifteen (15) feet from the line of the intersecting curbs, whichever is greater.
- (B) The width of any entrance driveway shall not exceed thirty (30) feet measured at right angles to the axis of said driveway.
- (C) No two driveways serving one property shall be included within fifteen (15) feet of each other at their intersection with the street line.
- (D) No entrance driveway shall intersect a street line at the angle of less than forty-five (45) degrees.
- (E) Approaches shall be flared at their intersection with the highway, with a radii not exceeding twenty (20) feet. The entire flare shall fall within the highway right-of-way.

### **Section 621—Service Stations and Other Drive-in Uses**

A station for the storage and sale of fuel, lubricating oil and accessories for motor vehicles and other drive-in uses shall meet the following requirements:

- (A) No street entrance or exit for vehicles, and no portion or equipment of such service station—or other drive-in uses—shall be located:
  - (1) Within two hundred (200) feet of a street entrance or exit of any school, park, or playground conducted for or attended by children.
  - (2) Within one hundred (100) feet of any hospital, church or public library.

- (3) Within seventy-five (75) feet of a lot in a residential district as established in this Ordinance.
- (B) No equipment above surface of ground for the service of motor vehicles shall be closer than fifteen (15) feet to any street line or highway or closer than thirty (30) feet to any property line.
- (C) The width of any entrance driveway leading from the public street to such service station or other drive-in use shall not exceed thirty (30) feet at its intersection with the curb line or edge of pavement.
- (D) No two driveways leading from a public street to such service station or other drive-in use shall be within fifteen (15) feet of each other at their intersection with the curb or street line.
- (E) Parking and vehicle access shall be so arranged that there will be no need for the motorist to go back over sidewalks or into streets.

**Section 622—Visibility at Intersections** (amended August 1, 1991, Ordinance No. 4-91); (amended December 1, 1994, Ordinance No. 4-94); (amended April 2, 1998, Ordinance No. 1-98)

Fences, hedges or other plantings, temporarily parked or stored vehicles, structures, or walls shall not be located at street corners so as to **reduce** the line of clear sight within the clear sight triangle. The clear sight triangle is a triangular area of unobstructed vision on corner lots measured from the intersection of the centerline of two streets a length of 120' if a collector, commercial, arterial or industrial street and 100' if a minor street joined by a line at the greatest distance from their intersection. The line of clear sight shall be identified as a straight line from all points three feet above the centerline of the first road to all points three feet above the centerline of the second road. Street intersections shall also have proper sight distances as required by the AASHTO "Green Book", Chapter IX. Alternatively, Table 2.3 in PA DOT Publication 70 may be used.

Fences, ornamental or decorative fences, hedges or other plantings, structures or walls excepting mail boxes and paper tubes (placed at the risk of the resident) shall not be located in the road right-of-way areas.

**Section 623—Landscaping (In Industrial Districts)**

No permit for the construction of a building in the Industrial District shall be issued until the plans for such development have been submitted to the Zoning Officer. The Zoning Officer shall order the issuance of a permit on the condition that adequate landscaping be provided and permanently maintained on the premises so that the general attractiveness and character of the surrounding area is maintained and that noise, odor, dust, smoke, or fumes are properly screened off from surrounding areas. A solid fence and/or evergreen planting no less

than five (5) feet high shall be provided wherever a lot in this district borders on any residence district.

**Section 624—Water Well Drilling Business** (added August 12, 1986, Ordinance No. 1-86)

A water well drilling business shall meet the following additional requirements:

- (A) Equipment, vehicles, machinery, drilling tools, and drilling supplies which are stored outside shall be stored a minimum of fifty (50) feet from the center line of any adjoining street and a minimum of thirty (30) feet from any adjoining property.
- (B) An outside storage area shall be bordered by a solid fence and/or solid evergreen planting of not less than five (5) feet high.
- (C) The width of any entrance driveway leading from a public street to the water well drilling business shall not exceed thirty (30) feet at its intersection with the curb line or edge of the pavement.
- (D) Parking and vehicle access shall be so arranged that there will be no need for the motorist to back into the street.

**Section 625—Recycling Centers** (added June 27, 1989, Ordinance No. 1-89)

Recycling Centers are designed to provide places for the drop-off, sorting and processing of municipal or residual solid waste. They are subject to the following conditions:

- (A) All lots shall be a minimum of 1.5 acres in size.
- (B) All activities shall take place within a building, no outside handling, storage or processing of waste shall be permitted.
- (C) All drop-off, delivery and shipping shall be inside buildings.
- (D) Inside collection, processing and storage areas shall be placed on concrete floors with drainage collection systems designed to prevent accidental spillage or leachate from reaching the surrounding ground.
- (E) All parking areas for collection trucks shall be paved with a drainage collection system to prevent run-off from reaching the surrounding ground.
- (F) Notwithstanding any other provision of this Ordinance, all such facilities shall be enclosed by a fence on all sides at least eight (8) feet high. This fence shall be designed for security and shall be at least twenty (20) feet from side and rear yard lot lines. A landscaped strip

shall be placed in the twenty (20) foot space, including screen plantings of trees or hedges along the required fencing (see Illustration 1, attached hereto and made a part hereof).

- (G) All side and rear yards shall be at least fifty (50) feet regardless of abutting uses or Districts.
- (H) There shall be well-marked and well-defined paved driveways for ingress and egress of automobiles and trucks. There shall be sufficient area on the site to stack at least five (5) tractor-trailers in order to prevent off-site traffic congestions.
- (I) Recycling Centers may be combined with Transfer Stations. However, in that event, the lot must be at least three (3) acres in size and there must be a plan submitted to show that sufficient space for the stacking of automobiles and trucks exist on-site without creating traffic problems off-site. In no event shall a combined Recycling/Transfer facility provide for less than the on-site stacking of at least seven (7) tractor-trailers.

**Section 626—Transfer Stations** (added June 27, 1989, Ordinance No. 1-89)

Transfer Stations are designed to be part of an overall solid waste management system and to allow for the transfer of waste from smaller vehicles to larger ones with facilities for compaction as needed. They are subject to the following conditions:

- (A) All lots shall be a minimum of 1.5 acres in size.
- (B) All activities shall take place within a building, no outside handling, storage or processing shall be permitted.
- (C) All drop-off, delivery and shipping shall be inside buildings.
- (D) Inside collection, processing and storage areas shall be placed on concrete floors with drainage collection systems designed to prevent accidental spillage or leachate from reaching the surrounding ground.
- (E) All parking areas for collection trucks shall be paved with a drainage collection system to prevent run-off from reaching the surrounding ground.
- (F) Notwithstanding any other provision of this Ordinance, all such facilities shall be enclosed by a fence on all sides at least eight(8) feet high. This fence shall be designed for security and shall also provide site screening. The fencing shall be at least twenty (20) feet from side and rear yard lot lines. A landscaped strip shall be placed in the twenty

(20) foot space, including screen plantings of trees or hedges along the required fencing (see Illustration 1, attached hereto and made a part hereof).

- (G) All side and rear yards shall be at least fifty (50) feet regardless of abutting uses or Districts.
- (H) There shall be well-marked and well-defined paved driveways for ingress and egress of automobiles and trucks. There shall be sufficient area on the site to stack at least five (5) tractor-trailers in order to prevent off-site traffic congestions.
- (I) Transfer Stations may be combined with Recycling Centers. However, in that event, the lot must be at least three (3) acres in size and there must be a plan submitted to show that sufficient space for the stacking of automobiles and trucks exist on-site without creating traffic problems off-site. In no event shall a combined Recycling/Transfer facility provide for less than the on-site stacking of at least seven (7) tractor-trailers.

**Section 627—Bed and Breakfast Homestead or Inn** (added June 6, 1996, Ordinance No. 1-96)

Bed and Breakfast Homesteads or Inns shall only be a conditional use limited to the A-1 Conservation District, the R-1 Rural Residential District and the R-2 Suburban Residential District. All Bed and Breakfast Homesteads or Inns shall be subject to the provisions set forth in Article XI of this Ordinance, and also shall comply with the following additional minimum requirements:

- (A) Short-term overnight lodging to be provided; monthly rentals are inappropriate and the maximum guest stays shall be limited to seven (7) days.
- (B) Maximum of five (5) guest rooms.
- (C) Breakfast served only to overnight lodgers and shall be the only meal provided.
- (D) Parking to be provided: A minimum of one (1) off-street parking space per guest room plus two (2) spaces for the owner, located in side or rear yard, minimum of twenty (20) feet from the property line.
- (E) All Bed and Breakfast Homesteads or Inns shall comply with all other applicable local, state and federal laws and the rules and regulations promulgated thereunder, including, but not limited to, Fire Codes, Health and Safety Codes, Building Codes, Electrical Codes and



Plumbing Codes. Upon request, all Bed and Breakfast homesteads or Inns shall provide to the Township written certification that they have been inspected and approved by the Pennsylvania Department of Labor and Industry.

- (F) One (1) sign shall be permitted. The maximum size shall be six (6) square feet, and the sign shall not project over a public right-of-way.
- (G) The remainder of the dwelling in which a Bed and Breakfast Homestead or Inn is located shall be used solely as a private residence for the dwelling's owner occupants. A bed and Breakfast Inn shall neither be considered an accessory use nor a home occupation. The principle use of the dwelling in which a Bed and Breakfast Inn is located shall be residential.
- (H) Guest rooms shall be located in principal dwelling unit and not in an accessory structure.
- (I) There shall be no changes to the external appearance of the building other than normal upkeep.
- (J) A minimum of one inspection per year shall be performed by the Zoning Officer to assure compliance with all conditions.

**Section 628—Child Day Care:**

Child Day Care use is categorized according to the following three (3) levels: (i) Family Child Day Care Home; (ii) Group Child Day Care Home; and (iii) Child Day Care Center. (See, Article II—Definitions). All child day care use shall be subject to the following supplementary regulations:

- (A) Any outdoor play area shall be effectively screened from abutting properties.
- (B) For all new construction, and where feasible for existing structures, circular driveways shall be provided to deliver and pick up children. These will be for the safety of the children and the protection of the neighborhood.
- (C) One (1) parking space for each non-resident employee shall be required.
- (D) In B-1 Highway/Plaza Commercial Districts, the structure in which the family child day care home or group child care home is to be located shall be in a pre-existing non-conforming family residence.

- (E) The caregiver and/or operator shall secure and keep current all permits, certificates and licenses required by the Department of Public Welfare of the Commonwealth of Pennsylvania and other licensing or regulatory agencies.
- (F) All caregivers and operators shall at all times and in all manner fully comply with all state and federal laws and regulations promulgated thereunder providing for the licensing or certification of child day care.

**Section 629—Regulations Governing Communications Antennas and Communications Equipment Buildings:** (added April 2, 1998, Ordinance No. 1-98)

- (A) Building mounted Communications Antennas shall not be located on any single family dwelling or two-family dwelling.
- (B) Building mounted Communications Antennas shall be permitted to exceed the height limitations of the applicable Zoning District by no more than twenty (20) feet.
- (C) Omnidirectional or ship Communications Antennas shall not exceed twenty (20) feet in height and seven (7) inches in diameter.
- (D) Directional or panel Communications Antennas shall not exceed eight (8) feet in height and three (3) feet in width. (amended June 3, 2010, Ordinance No. 3-10)
- (E) Any applicant proposing Communications Antennas to be mounted on a building or other structure shall submit evidence from a Pennsylvania registered professional engineer certifying that the proposed installation will not exceed the structural capacity of the building or structure, considering wind and other loads associated with the antenna location.
- (F) Any applicant proposing Communications Antennas to be mounted on a building or other structure shall submit detailed construction and elevation drawings indicating how the antennas will be mounted on the building or structure for review by the Township Engineer for compliance with applicable laws.
- (G) Any applicant proposing Communications Antennas to be mounted on a building or other structure shall submit evidence of agreements and/or easements necessary to provide access to the building or structure on which the antennas are to be mounted so that installation and maintenance of the antennas and Communications Equipment Building can be accomplished.

- (H) Communications Antennas shall comply with all applicable standards established by the Federal Communications Commission governing human exposure to electromagnetic radiation.
- (I) Communications Antennas shall not cause radio frequency interference with other communications facilities located in McKean Township.
- (J) A Communications Equipment Building shall be subject to the height and setback requirements of the applicable Zoning District for an accessory structure.
- (K) The owner or operator of Communications Antennas shall be licensed by the Federal Communications Commission to operate such antennas.

**Section 630—Regulations Governing Communications Towers and Communications Equipment Buildings:** (added April 2, 1998, Ordinance No. 1-98)

- (A) The applicant shall demonstrate that it is licensed by the Federal Communications Commission to operate a Communications Tower, if applicable, and communications Antennas.
- (B) The applicant shall demonstrate that the proposed Communications Tower and Communications Antennas proposed to be mounted thereon, comply with all applicable standards established by the Federal Communications Commission governing human exposure to electromagnetic radiation.
- (C) Communications Towers shall comply with all applicable Federal Aviation Administration, Commonwealth Bureau of Aviation and applicable Airport Zoning Regulations.
- (D) Any applicant proposing construction of a new Communications Tower shall demonstrate that a good faith effort has been made to obtain permission to mount the Communications Antennas on an existing building, structure, or communications tower. A good faith effort shall require that all owners of potentially suitable buildings, structures, or communications towers within a two (2) mile radius of the proposed Communications Tower site be contacted and that one (1) or more of the following reasons for not selecting such building, structure, or communications tower apply. (amended April 6, 2000, Ordinance No. 1-00)
  - (1) The proposed Communications Antennas and related equipment would exceed the structural capacity of the existing building, structure, or communications tower and its reinforcement cannot be accomplished at a reasonable cost.

- (2) The proposed Communications Antennas and related equipment would cause radio frequency interference with other existing equipment for that existing building, structure, or communications tower and the interference cannot be prevented at a reasonable cost.
  - (3) Such existing buildings, structures, or communications towers do not have adequate location, space, access or height to accommodate the proposed equipment or to allow it to perform its intended function.
  - (4) Addition of the proposed antennas and related equipment would result in electromagnetic radiation from such building, structure, or communications tower exceeding applicable standards established by the Federal Communications Commission governing human exposure to electromagnetic radiation.
  - (5) A commercially reasonable agreement could not be reached with the owners of such buildings, structures, or communications towers.
- (E) Access shall be provided to the Communications Tower and Communications Equipment Building by means of a public street or easement to a public street. The easement shall be a minimum of twenty (20) feet in width and shall be improved to a width of at least ten (10) feet with a dust-free, all-weather surface for its entire length.
- (F) A Communications Tower may be located on a lot occupied by other principal structures and may occupy a leased parcel within a lot meeting the minimum lot size requirements for the Zoning District.
- (G) The applicant shall demonstrate that the proposed height of the Communications Tower is the minimum height necessary to perform its function.
- (H) There is no maximum height of any Communications Tower, provided the required setbacks from adjoining property lines (not lease lines) are increased by one (1) foot for each one (1) foot of height in excess of all yard setback requirements for the district that the Communications Tower will be placed.
- (I) The foundation and base of any Communications Tower shall be set back from a property line (not lease line) located in any Residential District at least one hundred (100) feet and shall be set back from any other property line (not lease line) and least fifty (50) feet.

- (J) The base of a Communications Tower shall be landscaped so as to screen the foundation and base and Communications Equipment Building from abutting properties.
- (K) The Communications Equipment Building shall comply with the required yards and height requirements of the applicable Zoning District for an accessory structure.
- (L) The applicant shall submit certification from a Pennsylvania registered professional engineer that a proposed Communications Tower will be designed and constructed in accordance with the current Structural Standards for Steel Antenna Towers and Antenna Supporting Structures, published by the Electrical Industrial Association/Telecommunications Industry Association.
- (M) The applicant shall submit a copy of its current Federal Communications Commission license; the name, address and emergency telephone number for the operator of the Communications Tower; and a certificate of Insurance evidencing general liability coverage in the minimum amount of \$1,000,000 per occurrence and property damage coverage in the minimum amount of \$1,000,000 per occurrence covering the Communications Tower and Communications Antennas.
- (N) All guy wires associated with guyed Communications Towers shall be clearly marked so as to be visible at all times and shall be located within a fenced enclosure.
- (O) The site of a Communications Tower shall be secured by a fence with a minimum height of (8) eight feet to limit accessibility by the general public.
- (P) No signs or lights shall be mounted on a Communications Tower, except as may be required by the Federal Communications Commission, Federal Aviation Administration or other governmental agency which has jurisdiction.
- (Q) If a Communications Tower remains unused for a period of twelve (12) consecutive months, the owner or operator shall dismantle and remove the Communications Tower within six (6) months of the expiration of such twelve (12) month period.
- (R) One off-street parking space shall be provided within the fenced area.

**Section 631—Regulations Governing General Contracting Operations in the B-1 Highway/Plaza Commercial District**

General Contracting Operations shall be a special exception in the B-1 Highway/Plaza Commercial District and may be permitted if approved by the McKean Township Zoning Hearing Board. All general contracting operations shall comply with the following minimum requirements and any other measures that the Zoning Hearing Board might specify to protect the public interest.

- (A) All operations must be conducted no closer than two hundred (200) feet to an existing dwelling, school, hospital, church or similar residential use.
- (B) All equipment and materials associated with the general contracting operations must be contained within building(s) with no outside storage.
- (C) There shall be adequate defined off-street parking spaces for employees associated with the general contracting operations.
- (D) Parking and vehicle access shall be so arranged that motorists exiting will be in a forward approach onto streets.

**Section 632—Regulations Governing Adult Entertainment Uses** (added February 1, 2001, Ordinance No. 1-01)

An adult entertainment use shall be only a Special Exception limited to the I-1 Industrial District.

- (A) Supplemental Definitions: For purposes of any and all Sections relating to the regulation of Adult Entertainment Uses, the following definitions apply:
  - (1) Employee: A person who performs any service on the premises of a sexually oriented business on a full time, part time or contract basis, whether or not the person is denominated employee, independent contractor, agent or otherwise, and whether or not said person is paid a salary, wage or other compensation by the operator of said business. Employee does not include a person exclusively on the premises for repair or maintenance of the premises or equipment on the premises, or for the delivery of goods to the premises.
  - (2) Escort: A person who, for consideration, agrees or offers to act as a companion, guide, or date for another person, or who

agrees or offers to privately model lingerie or to privately perform a strip tease for another person.

- (3) Escort Agency: 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.
- (4) Establishment:
  - (a) The opening or commencement of any sexually oriented business as a new business.
  - (b) The conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business.
  - (c) The addition of any sexually oriented business to any other existing sexually oriented business.
  - (d) The relocation of any sexually oriented business.
- (5) Nudity or a state of nudity: The showing of the human male or female's genitals, pubic area, vulva, anus, anal cleft, or cleavage with less than a fully opaque covering, the showing of the female breasts with less than a fully opaque covering of any part of the areola and/or nipple, or the showing of the male covered genitals in a discernibly turgid state.
- (6) Person: An individual, proprietorship, partnership, corporation, association, or other legal entity.
- (7) Semi-Nude or in a Semi-Nude Condition: The state of dress in which clothing partially or opaquely covers "specified anatomical areas".
- (8) Sexually Oriented Business: An adult arcade, adult bookstore, adult novelty store, adult video store, adult cabaret, adult motion picture theater, adult theater, massage parlor, escort agency, nude model studio, or sexual encounter center.
- (9) Specified Anatomical Areas: The human genitals, pubic region, anus, buttocks, female breast(s) below a point immediately above the tip of the areola or human male genitals in a discernibly turgid state, even if completely covered.

- (10) Specified Sexual Activities: any of the following:
    - (a) The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts;
    - (b) Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, masturbation, or sodomy; or
    - (c) Excretory functions as part or in connection with any of the activities set forth in (a) and (b) above.
  - (11) Substantial Enlargement of a sexually oriented business means the increase in floor area occupied by the business by more than twenty-five (25%) percent as the floor area exists on February, 1, 2001.
- (B) All Adult Entertainment Uses shall be subject to the provisions set forth in Article X and all other relevant portions of the McKean Township Zoning Ordinance No. 2-1983, as amended and shall also comply with the following additional requirements.
- (1) No adult entertainment use shall be located within one thousand (1000) feet of the nearest property line of a parcel containing:
    - (a) A church, synagogue, mosque, temple or building which is used primarily for religious worship and related religious activities;
    - (b) A public or private educational facility including, but not limited to, child day care facilities, nursery schools, pre-schools, kindergartens, elementary schools, private schools, intermediate schools, junior high schools, middle schools, high schools, vocational schools, secondary schools, continuation schools, special education schools, junior colleges and universities; school includes the school grounds, but does not include the facilities used primarily for another purpose and only incidentally as a school;
    - (c) A public park or recreational area which has been designated for park or recreational activities including, but not limited to a park, playground, nature trails, swimming pool, reservoir, athletic field, basketball or tennis courts, pedestrian or bicycle paths, wilderness areas, or any other similar public land within the



Township which is under the control, operation, or management of the Township, or other similar land within the Township which is under the control, operation or management of private parties and open and available for use by the general public;

- (d) An entertainment business which is oriented primarily towards children and family entertainment;
  - (e) A licensed premises, licensed pursuant to the alcoholic beverage control regulations of the Commonwealth of Pennsylvania;
  - (f) A bottle club;
  - (g) Any other adult entertainment use.
- (2) No adult entertainment use shall be located within five hundred (500) feet of:
- (a) A boundary of a residential district as defined in the McKean Township Zoning Ordinance No. 2-1983 as amended; or a boundary of a residential district of any adjoining municipality as defined in that municipality's zoning ordinance.
  - (b) The nearest property line of a parcel containing any residence not located within a residential district.
- (3) Measurement of the distances required in this section shall be made in a straight line, without regard to the intervening structures or objects, from the nearest portion of the building or structure used as the part of the premises where a sexually oriented business is conducted, to the nearest property line of the premises of a use listed in this Section 632—Regulations Governing Adult Entertainment Uses. Presence of a municipal, county or other political subdivision boundary shall be irrelevant for purposes of calculating and applying the distance requirements of this Section 632.
- (4) Any lot, which is to be used for any adult entertainment use, shall contain screening and buffering along property lines adjoining other zoning districts or any residences. The screening and buffering shall consist of an opaque, permanent fence made of durable, weather-resistant material and at least six (6) feet in height, but in no case shall the fence exceed ten (10) feet in height.

- (5) Sufficient additional data shall be submitted to enable the Zoning Hearing Board to determine that the requirements of this and any other ordinances of the Township relevant to the proposed use have been fulfilled and that the owners and operators of proposed adult entertainment facilities demonstrate a desire and ability to comply with the ordinances of the Township and to prevent their establishments from being used for any illegal activities.
- (6) Any person proposing an adult entertainment use shall comply with all license and requirements adopted by the Township heretofore, or in the future.

**Section 633—No-Impact Home-Based Business** (added May 15, 2003, Ordinance No. 1-03)

A No-Impact Home-Based Business accessory use shall be a Permitted Use in the A-1 Conservation District, R-1 Rural Residential District, and R-2 Suburban Residential District and shall also comply with the following additional requirements:

- (A) The business activity shall be compatible with the residential use of the property and surrounding residential uses.
- (B) The business shall employ no employees other than family members residing in the dwelling.
- (C) There shall be no display or sale of retail goods and no stockpiling or inventory of a substantial nature.
- (D) There shall be no outside appearance of a business use, including, but not limited to parking, signs, or lights.
- (E) 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.
- (F) 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.
- (G) The business activity shall be conducted only within the dwelling and may not occupy more than 25% of the habitable floor area.
- (H) The business may not involve any illegal activity.

- (I) The no-impact home-based business shall not supersede any deed restriction, covenant or agreement restricting the use of land nor any master deed, by law or other document applicable to a common interest ownership community.

**Section 634—Semi-Trailer Storage Units** (added June 1, 2006, Ordinance No. 3-06)

Semi-trailer storage units shall be a permitted use in the B-1 Highway Plaza Commercial and the I-1 Industrial, R-1 Rural Residential, R-2 Suburban Residential, and A-1 Conservation Districts and shall comply with the following additional requirements.

(A) All semi-trailer storage units must meet all setback restrictions of the zoning district. If any semi-trailer storage unit abuts an R-1 Rural Residential District, R-2 Suburban Residential District, or A-1 Conservation District, a buffer area composed of acceptable fence, structure or vegetation is required to shield the unit on the side and rear yards.

(B) Semi-trailer storage units shall not be used as sign boards or used to display any form of advertising (other than ownership).

(C) Semi-trailer storage units shall be a permitted use in the B-1 Highway Commercial District and I-1 Industrial District for a period of one year.

(D) Semi-trailer storage units shall be a permitted use in the R-1 Rural Residential District, R-2 Suburban Residential District, and the A-1 Conservation District for a period not to exceed 90 days for the purpose of moving or delivering household goods.

(E) All units shall be maintained in a clean, neat and orderly condition so as not to constitute a hazard to public health, safety, and welfare.

(F) A zoning permit shall be required for each semi-trailer storage unit at a fee set by the Board of Supervisors which may be amended from time to time.

**Section 635—Campground** (added April 5, 2007, Ordinance No. 3-07)

In order to provide for the development of commercial campground facilities within the Township, this Section identifies standards, which must be addressed. A campground shall be considered a land development and shall be required to address all applicable provisions of the Township's Subdivision and Land Development regulations.

(A) Campgrounds shall comply with the following conditions:

- (1) Campgrounds may be used by camping units as temporary living quarters and may be rented by the day, week or monthly only.

- (2) A written report shall be submitted which describes:
  - (a) The impact of the campground upon Township and State roads; and
  - (b) The impact of the campground on sewer facilities, water supplies, schools and other public service facilities; and
  - (c) The suitability of the site for the intensity of the development, including soils, slopes, woodlands, wetlands, floodplains, aquifers and other natural features; and
  - (d) The impact of the campground on the preservation of agriculture and other land uses which are essential to public health and welfare.
- (3) Campground rules shall be submitted at the time of licensing; such rules shall be modeled after the Pennsylvania State Recreation Area Rules and Regulations as amended.
- (4) The owner of a campground shall pay a license fee, which shall be determined by the Township and shall be renewed annually. Upon application for renewal, the Township shall review compliance by the owner with all Township regulations. Should the owner be found in violation regarding the use of the campground, the application for renewal of the license shall be denied until such violation(s) have been corrected.
- (5) Accessory structures or uses which may be permitted are: recreation facilities, office, residence (for owner/caretaker), maintenance structure(s), restroom(s), laundry room, convenience store, pool. Such accessory structures shall:
  - (a) Not exceed fifteen feet (15') in height (residence may be placed above office/laundry/convenience store, however, it shall not exceed thirty-five feet (35') in height); and
  - (b) Not be located closer than one hundred feet (100') to any property line or road right-of-way.
- (6) The campground and accessory uses shall be completely private uses, not available to the general public other than through reservation with the owner.

- (7) Motor vehicles, other than recreational vehicles or those towing such, are not permitted, except on the improved roads as identified on the approved plan.
- (8) Storage facilities for campers, boats, etc. shall be permitted within the campground.
- (9) There shall be only one (1) primary access to the campground from a State or Township road or highway; and, at least one (1) emergency access way to be used for emergency situations only (preferably not the same road or highway).
- (10) The primary access to the campground shall have a minimum width of fifty feet (50') and shall have a maximum slope of two percent (2%) for a length not less than one hundred feet (100').
- (11) The campground shall provide off-street parking and loading areas, which are separated from the general traffic flow.
- (12) All interior roads and parking/loading areas shall be paved. Tar and chips will be accepted as a minimum. All roads will be a minimum of twenty (20) feet wide.
- (13) Lighting shall be provided, by the owner, at the primary access to the campground. Such lighting, as well as all interior lighting, shall not produce glare on adjacent roads and properties.
- (14) No noise from recordings, loudspeakers or public address systems shall be allowed which interferes with the reasonable enjoyment of adjacent residential properties.
- (15) The campground development shall meet the performance standards as set forth in the Zoning Ordinance.
- (16) Each campground shall be inspected at reasonable times and at such intervals as may be required for the proper enforcement of these regulations and the safekeeping of the health, safety, and welfare of the public.
- (17) Each campground shall have an office in which shall be kept copies of all records pertaining to the management and supervision of the campground. Such records shall be available for inspection by the authorized officers of the Township. The permit from the Township shall be on display in a conspicuous place on the premises at all times.

**Section 636—Self-Storage Facility** (added April 5, 2007, Ordinance No. 3-07)

- (A) No storage may take place outside of a storage unit.
- (B) No self-storage facility shall have water or sanitary sewer service except the office.
- (C) Access shall be from a main highway/road only.
- (D) The maximum height of any structure shall be fifteen feet (15’).
- (E) The maximum length of any structure shall be two hundred feet (200’).
- (F) The maximum width of any building shall not exceed fifty feet (50’).
- (G) Minimum distance between buildings:
  - (1) face to face – 30 feet
  - (2) end to end – 20 feet
- (H) The access road, or driveway, shall be paved.
- (I) The access areas to each storage unit and/or structure, shall be made permanently mud and dust free.
- (J) The entire facility shall be fenced, with access limited to the owner and those using the facility.
- (K) The facility shall be screened from adjacent properties and shall meet the standards established in Section 617 of this Ordinance.
- (L) Lighting shall be required for each structure and shall not interfere with adjacent properties or streets and shall meet the standards established in Section 617 of this Ordinance.

**Section 637—Swimming Pools** (added April 5, 2007, Ordinance No. 3-07)

- (A) A zoning certificate shall be required to locate or construct a swimming pool.
- (B) A pool shall be placed only in the rear or side yards and shall be setback from the property line the same distance as for an accessory structure.
- (C) In-ground pools shall be surrounded by a security fence, at least four feet (4’) in height, with access through a locked gate.

- (D) Aboveground pools shall have ladders which can be removed or folded-up to prevent access.
- (E) All equipment required in the operation of the pool shall be accessible for maintenance.
- (F) Public pools shall meet the requirements of the Pennsylvania Department of Environmental Protection.
- (G) Abandoned pools must be removed or appropriately filled in and covered under ground.

**Section 638—Wind Energy Conversion System (WECS)** (added April 7, 2011, Ordinance No. 11)

A WECS may be installed as a Special Exception in the A-1 Conservation, B-1 Highway/Plaza Commercial, and I-1 Industrial Districts only, and in no other zoning districts. Such approval shall be in accordance with the following requirements:

- (A) The maximum turbine height of a WECS shall be no taller than one hundred sixty (160) feet in height. The total turbine height shall include the height of any structure that a tower or pole is mounted on if it is not mounted directly at ground level.
- (B) The minimum setback for a WECS with a tower not mounted within a body of water shall be 1.1 times the total turbine height from the nearest occupied building, property line, or public or private street right-of-way. For a WECS with a tower mounted within a body of water, the minimum setback shall be 1.1 times the distance measured from the surface of the tower foundation to the highest point of the turbine rotor plane from the nearest occupied building, property line, or public or private street right-of-way.

NOTE: The total turbine height shall include the height of any structure that a tower or pole is mounted on if it is not mounted directly at ground level. The setback distance shall be measured from the center of the wind turbine base to the nearest point on the foundation of the nearest occupied building, property line, or public or private street right-of-way.

- (C) The following performance standards shall be met for all WECS:
  - (1) All WECS including towers shall comply with all applicable local, state, national, and, if applicable, international construction and electrical codes, and electric utility standards.
  - (2) No WECS shall be installed until evidence has been given to McKean Township that the electric utility company servicing the property has

been informed of the customer's intent to install an interconnected customer-owned generator. Off-grid systems shall be exempt from this requirement.

- (3) All wind turbines shall be equipped with controls to limit the rotational speed of the rotor within the design limits of the turbine.
- (4) Wind turbines shall remain painted or finished with the non-reflective color that was originally applied by the manufacturer.
- (5) All signs, other than the manufacturer's or installer's identification, appropriate warning signs, or owner identification sign on a wind generator, tower, building, or other structure associated with the WECS visible from any public road shall be prohibited.
- (6) A clearly visible warning sign detailing voltage must be placed at the base of all pad mounted transformers and substations.
- (7) On-site transmission and power lines between turbines or other structures of buildings shall, to the maximum extent practicable, be placed underground. Cost alone shall not be a determining factor of practicability.
- (8) Visible, reflective, colored objects, such as flags, reflectors, or tape, shall be placed on the anchor points of guy wires and along the guy wires up to a height of eight (8) feet above the ground.
- (9) Wind turbines shall not be artificially lighted unless the Federal Aviation Administration or other applicable authority regulating air safety requires such lighting.
- (10) All towers or poles shall be enclosed by an eight and a half (8-1/2) foot fence with a lockable entry by non-authorized persons. Or, the lot on which the towers or poles are located may be enclosed by an eight and a half (8-1/2) foot perimeter fence with a locked entry, and all towers shall have clearance of at least ten (10) feet for any climbing structure (ladder rungs, etc.).
- (11) The name and telephone number of the current contact person in the event of an emergency shall be posted at the site at all times.
- (12) The applicant shall maintain the WECS in good condition. Maintenance shall include, but not limited to, painting, structural repairs and safety and security systems.



- (13) The owner and/or operator of a WECS, at all times, shall maintain a current general liability insurance policy covering bodily injury and property damage caused by or arising from the installation, construction, operation, repair, replacement, maintenance, decommissioning, removal, and/or site restoration of the WECS with limits of at least one million dollars (\$1,000,000) per occurrence and one million dollars (\$1,000,000) in the aggregate. A certificate of such insurance shall be supplied to McKean Township prior to issuance of a permit and a current certificate of insurance shall be supplied to McKean Township annually within thirty (30) days after the policy anniversary issuance date.
  - (14) The facility owner and operator of a WECS shall maintain a telephone number and identify a responsible person for the public and McKean Township to contact with inquiries and complaints throughout the life of the project. The facility owner and operator shall make reasonable efforts to respond to inquiries and complaints by the public, and shall respond fully to all inquiries and complaints by McKean Township.
- (D) In addition to other requirements of this Ordinance, an application for a permit shall meet the following submission requirements:
- (1) A document providing a description of the proposed WECS shall include the following:
    - (a) property lines and physical dimensions of the property, including the locations of any existing structures on the property;
    - (b) location and turbine height of each proposed wind turbine, setback distances, access road and turnout locations, substation(s), ancillary equipment, buildings and structures, including permanent meteorological towers, associated transmission lines and layout of all structures within the geographical boundaries of any applicable setback;
    - (c) all utility lines and/or easements; any public road rights-of-way that are contiguous with the property;
    - (d) wind system specifications, including manufacturer and model, rotor diameter, tower height and tower type (freestanding or guyed) and approximate generating capacity;
    - (e) stamped engineered drawings of the tower, base, footings, and/or foundation as provided by the manufacturer. Wet stamps shall not be required.

- (2) An affidavit or evidence of agreement between lot owner and the facility's owner or operator confirming that the owner or operator has permission of the property owner to apply for necessary permits for construction and operation of the WECS.
  - (3) Other relevant studies, reports, certificates and approvals as may be reasonably requested by McKean Township including but not limited to documents confirming compliance with all setbacks and performance standards.
  - (4) Documents related to decommissioning, removal, and site restoration, including a schedule for decommissioning, removal, and site restoration.
  - (5) Financial security to ensure such decommissioning, removal, and site restoration as set forth herein.
- (E) An applicant for a WECS shall hold a neighborhood informational meeting prior to going before the Board of Supervisors or Zoning Hearing Board. The applicant shall notify all property owners within a 500-foot radius of the property lines of the lot upon which the WECS is proposed to be located. The meeting shall be held within McKean Township or McKean Borough, and the applicant shall explain the exact proposed location of the equipment, outline relevant safety measures, and otherwise answer any questions the attendants might have. The applicant shall provide evidence of both the mailing and the occurrence of the meeting to the Zoning Hearing Board.
- (F) The following requirements shall be met for decommissioning:
- (1) A zoning permit issued which authorizes this use shall be subject to the condition that the owner shall comply with all applicable regulations of this Ordinance governing decommissioning.
  - (2) The facility owner and/or operator shall, at its expense, complete decommissioning of the WECS(s) within six (6) months after the end of the useful life of the facility or individual turbine(s) or, if applicable, within six (6) months after termination of any lease or agreement authorizing such use, or within six (6) months after the revocation by McKean Township of a permit authorizing such use. A WECS will be presumed to be at the end of its useful life if no electricity is generated for a continuous period of twelve (12) months. The applicant shall be responsible for notifying the McKean Township Zoning Officer, in writing, of the end of the useful life of the system or, if applicable, the termination of use of such system(s).

- (3) Decommissioning shall include removal of wind turbines, building, cabling, electrical components, fencing roads, foundations to a depth of forty-eight inches (48”) below grade, and any other associated facilities.
- (4) Disturbed earth shall be graded and re-seeded, unless the landowner requests in writing that the access roads or other land surface areas not be restored.
- (5) Facility owner and/or operator shall provide evidence of financial assurance for decommissioning. Decommissioning funds may be in the form of a performance bond, surety bond, letter of credit, corporate guarantee or other form of financial assurance as may be acceptable to McKean Township.

**Section 639—Small Wind Energy System (SWES) and Commercial Industrial Wind Energy System (CIWES)** (added April 7, 2011, Ordinance No. 1-11)

A SWES may be permitted as a Conditional Use in all Zoning Districts and a CIWES may be permitted as a Special Exception in an A-1 Conservation, B-1 Highway/Plaza Commercial, and I-1 Industrial Zoning Districts only, and in no other zoning districts, in accordance with the following regulations:

- (A) The maximum turbine height of a SWES or CIWES shall be no taller than 160 feet in height.
- (B) The minimum setback for a SWES or CIWES with a tower not mounted within a body of water shall be 1.1 times the total turbine height from the nearest occupied building, property line, or public or private street right-of-way. For SWES or CIWES with a tower mounted within a body of water, the minimum setback shall be 1.1 times the distance measured from the surface of the tower foundation to be highest point of the turbine rotor plane from the nearest occupied building, property line, or public or private street right-of-way.

NOTE: The total turbine height shall include the height of any structure that a tower or pole is mounted on if it is not mounted directly at ground level. The setback distance shall be measured from the center of the wind turbine base to the nearest point on the foundation of the occupied building, property line, or public or private street right-of-way.

- (C) All applicable performance standards set forth in Section 638(C) of the Zoning Ordinance governing Wind Energy Conversion Systems, as the same may be amended in the future, shall apply to and govern the use of Small Wind Energy Systems or Commercial Industrial Wind Energy Systems. Applicable performance standards include those set forth in Section 638(C)(1)-(12) generally, except reducing the fence height of eight and one half (8-1/2) feet to six and one half (6-1/2) feet for SWES only, and others if relevant to a given

application. Proof of homeowner's insurance covering the SWES or other applicable insurance covering the CIWES shall be supplied to McKean Township prior to the issuance of a permit.

- (D) In addition to the submission requirement of Section 638(D), an applicant for a SWES or CIWES shall also hold a neighborhood information meeting with the same requirement as outlined in Section 638(D). The evidence of the occurrence of the meeting shall be provided to the McKean Township Planning Commission or Zoning Hearing Board as applicable.

## **ARTICLE VII—PLANNED RESIDENTIAL DEVELOPMENT**

(added June 3, 2010, Ordinance No. 3-10)

### **Section 700—Purpose**

The purpose of the Planned Residential Development regulations is to create residential development which is more creative and imaginative than is generally possible under conventional zoning district controls and subdivision requirements. Further, these regulations are intended to encourage innovations in residential development and renewal so that growing demand for housing may be met by greater variety in type, design and layout of dwellings and other buildings and structures and by the conservation and more efficient use of open space so that greater opportunities for better housing and recreation may extend to all future and current township residents.

### **Section 701—Definitions**

**Common Open Space:** A parcel or parcels of land or an area of water, or a combination of land and water within a development site, designed and intended for the use and enjoyment of residents of a development, not including streets, off-street parking areas, and areas set aside for public facilities.

**Cluster:** A development design technique that concentrates buildings on a part of the site to allow the remaining land to be used for recreation, Common Open Space, and preservation of Environmentally Sensitive Areas.

**Environmentally Sensitive Area:** An area with one or more of the following environmental characteristics:

- steep slopes over twenty-five (25) percent;
- flood plain (floodway and flood fringe);
- soils classified as highly erodible, subject to erosion, or highly acidic as identified within the Soil Survey of Erie County, Pennsylvania;
- wetlands

**Net Acreage:** Net acreage is that land area remaining after the exclusion of any portions of the Tract located within: existing and proposed rights-of-way, Environmentally Sensitive Areas, those areas designated for nonresidential uses, including, but not limited to, limited neighborhood commercial areas, and Common Open Space.

**Planned Residential Development:** 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 nonresidential 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 a municipal zoning ordinance. A form of development that permits a reduction in lot area and bulk requirements, provided there is no increase in the number of lots permitted under a conventional subdivision or increase in the overall density of development and the remaining

land area is devoted to open space, recreation, preservation or Environmentally Sensitive Areas or agricultural purposes.

**Steep Slope:** Average land areas exceeding twenty-five (25) percent in slope presented and measured as follows:

1. The development, grading, and stripping of vegetation shall be limited to a percentage of land within steep slope categories established by this Section. The applicant proposing the subdivision and/or land development shall prepare a topographic site plan with contour intervals of ten (10) feet (or of greater detail) and depicting the slope of all areas within the site according to the categories of 0-7.9%, 8-14.9%, 15-24.9% and greater than 25%. Such plan shall be sealed by a professional engineer, professional land surveyor, or a landscape architect.

2. The maximum area of land which may be developed, graded and stripped of vegetation shall be as follows:

a. No greater than 40% of areas with slopes ranging from 8% to 14.9% shall be developed, graded, or stripped of vegetation.

b. No greater than 30% of areas with slopes ranging from 15% to 24.9% shall be developed, graded, or stripped of vegetation.

c. No greater than 15% of areas with slopes greater than 25% shall be developed, graded, or stripped of vegetation.

**Tract:** The area of land to be developed as a Planned Residential Development.

### **Section 702—Administration**

The Planned Residential Development provisions of this Article shall be applied by Township staff, the Township Planning Commission and the Board of Supervisors, to all applications based on the standards, conditions and regulations contained herein. The Planning Commission and Board of Supervisors shall conduct required public hearings, but action by the Planning Commission shall consist of findings and recommendations. All tentative and Final Approvals (or denials thereof) shall issue from the Board of Supervisors and may include modifications or conditions suggested by the Planning Commission.

### **Section 703—Exclusivity**

This Article shall provide the sole and exclusive method by which Planned Residential Developments shall be permitted in McKean Township.

**Section 704—Planned Residential Development Regulations**

(A) Permitted Uses:

Residential:

- Single Family Dwelling
- Two Family Dwelling (Not to exceed two dwelling units per structure)
- Multi-Family Dwelling (Not to exceed ten dwelling units per structure)
- Uses customarily incidental and subordinate to the above uses

Non-Residential:

- Park and recreation uses to include golf courses, swimming pools, tennis courts, court and field sports areas and similar uses as approved by the Board of Supervisors
- Community Center
- Child Day Care

(B) Density: Allowable number of dwelling units shall be based upon Net Acreage and shall be calculated as follows:

1. Calculate Net Acreage (Net Acreage = Gross Acreage of the Tract – Common Open Space - Any Additional Environmentally Sensitive Areas Not Included Within the Common Open Space)

2. Maximum Densities per Zoning District shall be as follows:

- A-1 Conservation: 1.1 dwelling units per acre
- R-1 Rural Residential: 3.2 dwelling units per acre
- R-2 Suburban Residential: 4.4 dwelling units per acre

3. Calculate number of dwelling units Allowable (Number of Dwelling Units = Net Acreage x Maximum Density per Zoning District), rounding down the full dwelling unit.

(C) Water/Sewer Requirements

Public water and sanitary sewer systems approved by the Pennsylvania Department of Environmental Protection shall be provided. A fire hydrant shall be provided within six hundred (600) feet of each structure.

(D) Minimum Lot Size

There shall be no minimum lot size, setbacks, percentage of lot coverage or lot width. However, every single-family dwelling shall have access to a public street, court, walk

or other area dedicated to public use. No structure or group of structures shall be erected within twenty (20) feet of any other structure or group of structures.

(E) Setback

All structures on the perimeter of the development must be set back in accordance with the greater of the provisions of the zoning district controlling the area within which the development is situated OR the provisions of the adjoining district(s). Accessory buildings shall be at least 10 feet from the rear property line.

(F) Height

No building shall be erected to a height in excess of 35 feet.

(G) Design Standards

1. Separate garages and accessory buildings may be located in any rear yard, provided that they do not violate the coverage regulations herein set forth and that no part of the structure projects over the property line.

2. The maximum permitted impervious coverage shall be no more than thirty-five percent (35%) of the Gross Acreage of the Tract.

3. Off-street parking and access shall be provided in accordance with provisions set forth in all applicable McKean Township Ordinances, including but not limited to Section 606 herein.

4. Sidewalks and Paths

a. A sidewalk system shall be provided throughout the Open Space Development, adjacent to and interconnecting all dwelling units with other dwelling units, collector streets, non-residential uses and Common Open Space. Sidewalks shall promote pedestrian activity throughout the development, as well as neighboring developments, and may include gathering/sitting areas with benches, landscaping and other street furniture as appropriate.

b. The edge of the sidewalk farthest from the cartway shall be located on the right-of-way line and shall be constructed in accordance with Township specifications.

c. Walking and biking paths shall be provided where possible, linking internal Common Open Space areas with peripheral open space areas and adjacent neighborhoods. Such paths shall be a minimum of six feet (6') wide and may use asphalt paving.



5. When required, loading docks, solid waste garbage facilities, recycling facilities and other service areas shall be placed to the rear or side of buildings, in less visually obtrusive locations. Screening and landscaping shall prevent direct views of such facilities, and associated loading areas and driveways, from adjacent properties or from the public right-of-way. Such screening shall be a minimum of four (4) feet in height.

6. Lighting and signage shall be unobtrusive to residential areas located within the Planned Residential Development and must meet all other requirement of this and all other Ordinances of McKean Township.

7. Ornamental trees shall be installed on both sides of all streets, centered between sidewalk and edge of the cartway. Trees shall be 25' or less in height at maturity and shall be planted at maximum of 30' intervals.

8. Public Streets and Private Streets in a Planned Residential Development of more than one lot shall have a public right-of-way width of 50' minimum and all Public Streets shall be designed, constructed, and maintained in accordance with the McKean Township Subdivision and Land Development Ordinance as amended.

(H) Common Open Space

1. Minimum Common Open Space: The minimum amount of Common Open Space required in any Planned Residential Development shall be determined by the proposed reduction in the lot sizes. The difference in lot sizes between the size as would be required by the applicable zoning district and the size as proposed in the open space development plan, times the number of lots proposed, shall be the minimum amount of Common Open Space required. Common open space shall be deed restricted to prohibit future subdivision or development. In addition, the following provisions shall apply:

a. Passive Common Open Space: Not less than thirty-five (35) percent of the gross area of the Common Open Space shall be allocated to and shall remain in Passive Common Open Space. The Passive Common Open Space shall typically include all or part of the following resources:

- i. mature woodlands,
- ii. prime farmland,
- iii. historic, archeological or cultural features listed, or eligible to be listed, on the National Register of Historic Places,
- iv. regulatory floodplain, and
- v. slopes exceeding 25%.

b. Useable Common Open Space: Not less than thirty-five (35) percent of the gross area of the Common Open Space shall be allocated to Useable Common Open Space for unimproved active recreational land uses. Useable Common Open Space shall not contain Environmentally Sensitive Areas as defined herein.

2. General Locational and Design Standards:

a. Planned Residential Developments shall be designed in such a manner so that the Common Open Space shall be directly accessible to the largest practicable number of lots within the development.

b. Where the Common Open Space is designated as separate, noncontiguous parcels, no parcel shall consist of less than three (3) acres in area, except that such areas are specifically designed as buffers to wetlands, waterbodies or watercourses, or designed as trail links.

c. Common Open Space containing existing attractive or unique natural features, such as streams, creeks, ponds, woodlands, specimen trees and other areas of mature vegetation worthy of preservation may be left unimproved and in a natural state. As a general principle, the preservation of undeveloped open space in its natural state or as existing farms is encouraged. A developer may make certain improvements, such as the cutting of trails for walking or jogging, and the provision of picnic areas.

d. No roads, emergency access roads, driveways or utility rights-of-way, easements, or improvements shall be counted toward the minimum acreage designated for the minimum Common Open Space as required above, except as required as part of the approved Common Open Space.

3. Evaluation Criteria:

In evaluating the layout of lots and Common Open Space, the following criteria shall be considered by the governing body as indicating design appropriate to the site's natural, historic, and cultural features, and meeting the purposes of this Ordinance. Diversity and originality in lot layout shall be encouraged to achieve the best possible relationship between development and conservation areas. The governing body shall evaluate proposals to determine whether the proposed Sketch or Tentative Plan:

a. Protects and preserves all, or part of all, floodplains, wetlands, and steep slopes from clearing, grading, filling, or construction (except as may be approved by the Township for essential infrastructure or recreation amenities).

b. Preserves and maintains mature woodlands, existing fields, pastures, meadows, and creates sufficient buffer areas to minimize conflict between residential and nonresidential uses.

c. Maintains or creates a buffer of natural native species of vegetation of at least twenty-five (25) feet in depth, adjacent to wetlands and surface waters.

d. Designs around and preserves features of historic, archeological or cultural value, and their environs insofar as needed to safeguard the character of the feature.

e. Includes a pedestrian circulation system designed to assure that pedestrians can walk safely and easily on the site, between properties, activities, and/or special features within the Planned Residential Development. All walkways/sidewalks should link with off-site trails, walkways, sidewalks and potential open space on adjoining undeveloped parcels where practicable.

f. Provides open space that is reasonably contiguous. Fragmentation of open space should be minimized so that these resource areas are not divided into numerous small parcels located in various parts of the development. To the greatest extent practicable, this land shall be designed as a single block with logical, straightforward boundaries. Long thin strips of Common Open Space shall be avoided, unless the conservation feature is linear or unless such configuration is necessary to connect with other streams or trails.

4. Ownership and Management:

a. The Common Open Space proposed for a Planned Residential Development may be offered to McKean Township for dedication for public use and maintenance, but McKean Township shall not be obligated to accept such dedication. An offer of public dedication of the Common Open Space shall not be a condition of approval for any Planned Residential Development.

b. In any Planned Residential Development, the landowner or developer shall retain ownership and maintenance, or establish an organization for the ownership and maintenance of the Common Open Space. Documents creating and governing the organization for the ownership and maintenance of the Common Open Space and recreational facilities shall be submitted as part of the application for Tentative Plan approval. Any such organization so formed shall not be dissolved, nor shall it dispose of the Common Open Space by sale or otherwise (except to an organization conceived and established to own and maintain the Common Open Space). The organization, or any successor thereto, may offer the Common Open Space to McKean Township for dedication for public use and maintenance but McKean Township shall not be obligated to accept such dedication.

c. If an organization is to own and maintain Common Open Space and recreational facilities, the following minimum requirements shall be incorporated into the association regulations.

i. Membership in the organization shall be mandatory for all purchasers of dwelling units and their successors.

ii. The organization shall be responsible for the maintenance, insurance, taxes and other assessments on such property.

iii. The members of the organization shall equitably share all costs incurred, in accordance with procedures set forth within the organizational documents.

d. In the event that the organization established to own and maintain Common Open Space, or any successor organization, shall at any time after establishment of the Planned Residential Development fail to maintain the Common Open Space in reasonable order and condition in accordance with the development plan or fail to pay the insurance, taxes and other assessments on such property, McKean Township may serve written notice upon such organization or upon the residents of the Planned Residential Development setting forth the manner in which the organization has failed to maintain the Common Open Space in reasonable condition or failed to pay the costs incurred, and said notice shall include a demand that such deficiencies of maintenance or payment be corrected within thirty (30) days thereof, and shall state the date and place of a hearing thereon which shall be held within fourteen (14) days of the notice. At such hearing, McKean Township may modify the terms of the original notice as to the deficiencies and may give an extension of time within which they shall be corrected.

i. If the deficiencies set forth in the original notice or in the modifications thereof shall not be corrected within said thirty (30) days or any extension thereof, McKean Township, in order to preserve the taxable values of the properties within the Planned Residential Development and to prevent the Common Open Space from becoming a public nuisance, or falling into disrepair or neglect, may enter upon said Common Open Space and maintain the same for a period of one (1) year. Said maintenance by McKean Township shall not constitute a taking of said Common Open Space, nor vest in the public any rights to use the same.

ii. Before the expiration of said year, McKean Township shall, upon its initiative or upon the request of the organization theretofore responsible for the maintenance of the Common Open Space, call a public hearing upon notice to such organization, or to the residents of the Planned Residential Development, to be held by the governing body, at which hearing such organization or the residents of the Planned Residential Development shall show cause why such maintenance by McKean Township shall not, at McKean Township's option, continue for a succeeding year. If the governing body shall determine that such organization is ready and able to maintain said Common Open Space in reasonable condition, McKean Township shall cease to maintain said Common Open Space at the end of said year. If the governing body determines that such organization is not ready and able to maintain said Common Open Space in a reasonable condition, McKean Township may, in its discretion, continue to maintain said Common Open Space during the next succeeding year and, subject to a similar hearing and determination, in each year thereafter.

iii. The decision of the governing body shall be subject to appeal to court in the same manner, and within the same time limitation, as is provided for zoning appeals by the Pennsylvania Municipalities Planning Code, as now enacted or hereafter amended.

iv. The cost of such maintenance and/or costs for any insurance, taxes and other assessments on such property shall be assessed against the properties within the Planned Residential Development that have a right of enjoyment of the Common Open Space, pro-rata according to each such property's County assessment for real estate tax purposes, without abatement, exoneration or set-off, and shall become a lien on said properties. McKean Township at the time of entering upon said Common Open Space for the purpose of maintenance shall file a notice of lien in the Office of the Prothonotary of Erie County, upon the properties affected by the lien within the Planned Residential Development.

### **Section 705—Application Process**

#### **(A) Optional Sketch Plan Submission**

1. It is strongly recommended that the applicant submit a Sketch Plan to the Township Planning Commission for preliminary discussions of intent. In submitting the Sketch Plan, the applicant will receive the benefit of advice and comment prior to the submission for the required Tentative Approval. By so doing, the applicant will have constructive comments for use in the development of a more refined first submission for Tentative Approval and possibly reduce future review comments. In all likelihood this process will provide a significant cost savings to the applicant.

2. The Planning Commission shall review the Sketch Plan in conference with the applicant and, by mutual agreement, determine a sketch plan which conforms with the intent of this Article. The applicant may then proceed with the preparation of the tentative plan submittal.

3. The submission of the Sketch Plan shall not be deemed the beginning of the time period for review as prescribed by law. The review of the Sketch Plan by the Planning Commission is intended to be advisory only and shall not bind the Township to approve the application for preliminary or Final Approvals.

4. The Sketch Plan may be an approximate drawing but should generally be drawn to a scale of one hundred (100) feet to the inch.

5. The Sketch Plan should contain at least the following information but need not necessarily show precise dimensions. This information is requested in order to assist the applicant in developing a plan which meets the requirements and intent of this Ordinance without incurring significant time and expense.

a. The location, size and topography (USGS) of the Tract and the nature of the applicant's interest in the land proposed to be developed, including the approximate Tract boundary, north point, names of adjacent property owners and identification of adjacent streets.

b. The intensity of land use to be allocated to various parts of the site as well as the number of dwelling units contemplated.

c. The general layout of the proposed development and interrelationship of uses including, but not limited to Common Open Space, buildings and other structures, residential building types, off-street parking, lot and street configuration.

d. A written statement of a qualified professional concerning the feasibility of proposals for sewerage, water supply, and stormwater management, but not to include drawings.

e. In the case of development plans which call for execution over a period of years, a statement regarding the proposed phasing schedule should be issued.

f. If available, an aerial photograph of the affected Tract, as well as a videotape or photographs of the area.

g. Generalized Environmentally Sensitive Areas.

h. Any other information available to the applicant which may be of benefit to the Township in providing their assistance.

(B) Application for Tentative Approval

The procedure for applying for Tentative Approval of a Planned Residential Development shall be as follows:

1. Application. An application for Tentative Approval of the Planned Residential Development plan shall be filed with the governing body by or on behalf of the landowner. The application shall be in the form prescribed by the governing body, shall be accompanied by the application fee established by resolution and shall be delivered to the Zoning Administrator. The application for Tentative Approval shall be accompanied by the following information:

a. the location, size and topography (USGS) of the Tract and the nature of the landowner's interest in the land proposed to be developed;

b. the density of land use to be allocated to parts of the site to be developed;

c. the type, location and size of the Common Open Space and the form of organization proposed to own and maintain the Common Open Space;

d. the use and approximate height, bulk and location of buildings and other structures;

e. a written statement of a qualified professional concerning the feasibility of proposals for sewerage, water supply, and stormwater management;

f. the substance of covenants, grants of 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;

g. the provisions for parking of vehicles and the location and width of proposed streets and public ways;

h. the required modification(s) in McKean Township land use regulations otherwise applicable to the subject property;

i. the feasibility of proposals for energy conservation and the effective utilization of renewable energy resources;

j. in the case of development plans that provide for development over a period of years, a schedule showing the proposed times within which applications for the Final Approval of all sections of the Planned Residential Development are intended to be filed; and

k. a written statement by the landowner setting forth the reasons why, in the landowner's opinion, a Planned Residential Development would be in the public interest and would be consistent with the Comprehensive Plan for the development of McKean Township.

2. Site Maps, Plans, Profiles, Cross Section and Architectural Drawings.

Each map, plan and drawing shall be prepared by a professional engineer, surveyor, landscape architect or architect registered in the Commonwealth of Pennsylvania, who shall place his seal and signature on all applicable plans, maps, and drawings. Such plans, maps and drawings shall be prepared in accordance with the requirements of McKean Township Subdivision and Land Development Ordinance, as amended. In addition, the following shall be shown:

a. Plans for recording plats shall be drawn on sheets having a sheet size of 18" x 24" at a minimum scale of 1" = 100'.

i. The file or project number assigned by the firm that prepared the plan, the plan date, and the dates of all plan revisions.

ii. The entire Tract boundary with bearings and distances, and identification of all corner markers.

iii. A location map, for the purpose of locating the site to be subdivided or developed, at a minimum scale of two thousand (2,000) feet to the inch, showing the relation of the Tract to adjoining property and to all streets, municipal boundaries and streams existing within one thousand (1,000) feet of any part of the property proposed to be developed.

iv. The plotting of all existing adjacent land uses and lot lines within two hundred feet (200') of the proposed development boundaries including the location of all public and private streets, drives, or lanes, railroads, utilities, towers, easements, embankments, walls, streams and watercourses, buildings and other structures, fences and walls, all residential and non-residential land uses, fire hydrants, storm drainage structures, and other significant natural or man-made features.

v. Contours at vertical intervals of two (2) feet.

vi. The delineation of one hundred (100) year floodplains, including separate delineations of the floodway and flood fringe areas.

vii. The delineation of all soil types indicated by the U.S.D.A. Soil Conservation Service Soil Survey of Erie County.

viii. Environmental analysis map(s) showing and identifying the location of unique land forms or natural features (such as hills, berms, knolls, mounds, swales, bowls, depressions, rock outcroppings or scenic views), areas exceeding twenty-five (25) percent slope (as defined herein), type of bedrock, and its associated environmental characteristics (such as depth to seasonal high water table, depth to bedrock, and its associated environmental characteristics (such as depth to seasonal high water table, depth to bedrock, erodibility and permeability), water courses or bodies of water, floodplains, wetlands or other hydrologic conditions affecting the Tract (proof of the non-existence of such conditions shall be provided by the applicant), and any other Environmentally Sensitive Areas and/or features.

ix. The plotting of all existing landmarks within the proposed development including the location of all existing streets, buildings, easements, rights-of-way, storm drainage structures, and water courses.

x. A list of site data including, but not limited to the following:

- aa. Total acreage of the Tract
- bb. Proposed use of the land
- cc. Proposed gross area of the development
- dd. Proposed gross residential density
- ee. Proposed number of dwelling units and building type(s)
- ff. Proposed number of lots



- gg. Acreage of all street rights-of-way, and whether and which are proposed for dedication
  - hh. Acreage and percentage of Common Open Space
  - ii. Acreage of areas for stormwater management retention ponds
  - jj. Acreage to be sold to individual owners
  - kk. Acreage to be retained by landowner
  - ll. Proposed number of parking spaces
- xi. The proposed location and dimensions of all streets, access drives, off-street parking areas, sidewalks, bikeways and curbing.
  - xii. The radius and arc dimensions for all lot line and street line curves.
  - xiii. The size of all lots in square feet and acreage.
  - xiv. Reference as to whether any existing structure on the Tract to be developed is to be retained or removed.
  - xv. The proposed location of building setback lines from all streets, and the distances between buildings, adjacent Tract boundaries and lot lines.
  - xvi. The proposed location, size and use of all Common Open Space areas, structures and recreation facilities.
  - xvii. The proposed areas to be dedicated to the Township with acreage of all areas and widths of all rights-of-way.
  - xviii. Proposed street names.
  - xix. The proposed location of all survey pins and concrete monuments placed in accordance with Article VII of the Township's Subdivision and Land Development Ordinance.
  - xx. The proposed size and location of all sanitary sewers, water mains, fire hydrants and laterals, storm drainage facilities, gas mains, and electric utilities, materials of all pipes, invert and top elevations of facilities and gradient of all pipes for sanitary sewers and storm drainage facilities.
  - xxi. A clearing and vegetation protection plan showing and identifying the location of all areas of the Tract to be cleared, all areas of soil disturbance, all areas of topsoil stockpiling during the period of development, all existing vegetation to be retained, and details for the methods of vegetation protection during the period of development.

xxii. A proposed phasing plan of the development covering the entire Tract or Tracts affected, or a statement that the development will not be constructed in phases.

b. Typical cross-sections, details and specifications as well as preliminary profiles, shall be submitted for all improvements including streets, curbs, sidewalks, bikeways, recreation facilities, planting, sanitary and/or storm sewer facilities, and sediment and erosion control facilities.

c. A planting plan for the development shall include the identification and location of the following information:

i. All pertinent information regarding the general site layout, existing man-made and natural features on the Tract, proposed grading, existing vegetation to be retained and other conditions affecting proposed landscaping.

ii. Proposed plantings, including trees, designated by symbols appropriately scaled to represent the sizes of such at time of planting. Planting beds shall be shown by a clearly delineated border outline.

iii. Details and specifications for all proposed plantings, topsoiling, seeding and mulching, including notes regarding special maintenance requirements to be temporarily used during the period of establishment, or permanently, and the limits of any such special maintenance areas.

iv. Proposed buffering, screening, walls and fences, including construction details, cross-sections, elevations, and materials.

v. Proposed courtyards, lanes, walkways, paths, Common Open Space and recreation areas and facilities, street or site furniture, ponds, fountains, trellises, pergolas, gazebos, accessory structures, art and sculpture, common mail boxes, solid waste and recycling storage facilities and HVAC equipment and utility service boxes, to be located at or above grade. Construction details, cross-sections, elevations, and materials for all of the above items where applicable.

d. Architectural drawings shall be submitted of each proposed structure type in the Planned Residential Development.

e. A proposed traffic warning and regulatory control signage plan, prepared in accordance with PennDOT Publications 201 and 236.

3. Declaration of Covenants, Grants of Easements, Conditions and Restrictions.

a. All deeds for conveyance of property with the Planned Residential Development shall bind the purchasers to the Declaration of Covenants, Grants of Easement, Conditions and Restrictions and shall state the requirement of mandatory membership for all residents in the development in the residents association, if such an association is to be created for the ownership, administration and maintenance of the Common Open Space.

b. The Declaration of Covenants shall include but shall not be limited to the following:

- i. Parties to the Declaration
- ii. Effective date of Declaration
- iii. Definition of terms used in Declaration
- iv. Establishment of a Residents Association (if applicable)
- v. Property rights of the landowner and of individual owners of property in any and all lands included within the limits of the development
- vi. Title to Common Open Space
- vii. Covenants and restrictions in Common Open Spaces preventing future development
- viii. Membership and voting rights of developer and of residents in Residents Association (if applicable)
- ix. Rights of tenants or lessees
- x. Covenant for Maintenance Agreement of all Common Open Spaces and other improvements throughout the development
- xi. Responsibility of owners of property concerning the maintenance of the individual property
- xii. Assessments for maintenance and special assessments
- xiii. Collection of maintenance and special assessments
- xiv. Exemptions from assessment
- xv. Architectural control
- xvi. Exterior maintenance including necessary enforcement of maintenance provisions
- xvii. Stage developments, including rights of all owners of property in all developed areas
- xviii. Rights of the Township

c. Copies of proposed Articles, Certificates and By-Laws of the Residents Association shall be submitted, when applicable, for approval. The By-Laws of the Residents Association shall include but shall not be limited to the following:

- i. Name of Association
- ii. Organizational outline of Association
- iii. Date, Time and place for Association meetings
- iv. Means of notification of meetings, including notification to the Township

- v. Constitution of quorum for a meeting
- vi. Method of election and terms of office of officers
- vii. Board of Directors of Association
- viii. Powers, duties and responsibilities of Officers and of Board of Directors of Association
- ix. Date, time and place of meetings of Board of Directors
- x. Records of Association and Board of Directors
- xi. Levying and collecting of assessments called for in Declaration of Covenants, Conditions and Restrictions
- xii. Membership and voting rights of developer and residents in Residents Association

4. Supporting Information.

- a. A traffic study.
- b. A written statement describing the natural features of the Tract including, but not limited to, and analysis of the hydrology, geology, soils, topography and vegetation.
- c. A written statement summarizing the probable impact of such a development on the immediate environment and adjacent neighborhood.
- d. A listing of all proposed dwelling units, square footage figures per unit, number of bedrooms, and structure types; a listing of all non-residential structures with square footage figures.
- e. A description of any phased development schemes with figures for gross residential density. Percent figures for Common Open Space for each phase as well as limit of improvement of Common Open Space for each phase. The approximate date when construction of each phase of the project can be expected to begin and the approximate date when each phase of the project will be completed. This schedule shall be updated annually by the landowner until the development is completed and all public improvements accepted by the Township.
- f. A description of the use and improvement of Common Open Space throughout the Tract, and the means by which the landowner will guarantee its continuity and maintenance.
- g. A statement describing proposed lighting, sewerage, water, electric, gas, telephone, and cable television.
- h. Preliminary calculations for design and location of storm drainage facilities.

i. An estimate of the cost of construction of all required improvements for each phase of construction. The Township may submit the estimates to the Township Engineer for review and recommendation. The final amount of the security for each phase shall be determined by the Township upon submittal of detailed cost estimates by the applicant.

5. Related Approvals.

Prior to the submission of the plan for Final Approval, the following approvals must be obtained, signed and certified, from appropriate utilities, authorities and agencies, as needed.

a. Appropriate sewer authority: an executed sewer service agreement.

b. Appropriate water authority or company: an executed water service agreement.

c. Pennsylvania Department of Transportation: Highway Occupancy Permits.

d. Erie County Conservation District: approval of site and improvement plans with regard to possible flooding, soil erosion and sediment control.

e. Pennsylvania Department of Environmental Protection: sewer and water approval; erosion and sediment control approval (earth moving).

f. Electric Company: If a street lighting district is to be created, approval of the lighting plan and location of all electric power lines and easements.

6. The proposed development schedule required pursuant to subparagraph 1(j) above shall be updated annually on the anniversary of Tentative Approval, until the development is completed and accepted.

7. The application for Tentative Approval and Final Approval of a Planned Residential Development plan shall be done as provided for in this Article, notwithstanding any other procedures established in this Ordinance or any other ordinance of McKean Township.

**Section 706—Public Hearings**

(A) Within sixty (60) days after an application for Tentative Approval of a Planned Residential Development has been filed, the governing body shall hold a public hearing on said application, in accordance with the provisions of this Ordinance and Article IX of the Pennsylvania Municipalities Planning Code, Act 270 of 1968, as amended, 53 P.S. §10901, et seq.

(B) The governing body may continue the hearing, from time to time, provided, however, that in any event, the continued public hearing or hearings shall be concluded within sixty (60) days from the date of the first public hearing.

**Section 707—Findings**

(A) Within sixty (60) days from the conclusion of the public hearing(s) provided for in this Article, or within one hundred eighty (180) days after the date of the filing of the application, whichever occurs first, the governing body shall, by official written communication to the landowner, either:

1. grant Tentative Approval of the Planned Residential Development plan as submitted;
2. grant Tentative Approval of the Planned Residential Development plan subject to specified conditions not included in the development plan as submitted; or
3. deny Tentative Approval of the Planned Residential Development plan.

Failure of the governing body to act within the specified sixty (60) day/one hundred eighty (180) day period shall be deemed to be a grant of Tentative Approval of the Planned Residential Development plan as submitted.

(B) In the event the governing body grants Tentative Approval subject to conditions, the landowner may, within thirty (30) days after receiving a copy of the official written communication granting such approval, notify the governing body of the landowner's refusal to accept all said conditions, in which case the governing body shall be deemed to have denied Tentative Approval of the Planned Residential Development plan. If the landowner does not notify the governing body of his refusal to accept all said conditions within the specified thirty (30) day period, Tentative Approval of the Planned Residential Development, with all said conditions, shall stand as granted.

(C) The governing body's grant or denial of Tentative Approval shall be made by official written communication, which shall include the governing body's conclusions together with findings of fact related to the specific proposals. The official written communication shall set forth the reasons for the granting with or without conditions, of Tentative Approval, or the denial of Tentative Approval, and said communication shall also set forth with particularity in what respects the proposed Planned Residential Development would or would not be in the public interest, including but not limited to, findings of fact and conclusions on the following:

1. in those respects in which the Planned Residential Development plan is or is not consistent with the Comprehensive Plan for the development of McKean Township;

2. the extent to which the Planned Residential Development plan departs from zoning and subdivision regulations otherwise applicable to the subject property, including, but not limited to, density, bulk and use, and the reasons why such departures are or are not deemed to be in the public interest;

3. the purpose, location and amount of the Common Open Space in the Planned Residential Development, the reliability of the proposals for maintenance and conservation of the Common Open Space, and the adequacies or inadequacies of the amount and purpose of the Common Open Space as related to the proposed density and type of Planned Residential Development;

4. the physical design of the Planned Residential Development plan and the manner in which said plan does or does not make adequate provision for control over vehicular traffic and the amenities of light and air, recreation and visual enjoyment;

5. the relationship, beneficial or adverse, of the Planned Residential Development to the neighborhood in which it is proposed to be established; and

6. in the case of a Planned Residential Development plan that proposes development over a period of years, the sufficiency of the terms and conditions intended to protect the interests of the public and of the residents of the Planned Residential Development in the integrity of the development plan.

D. In the event a Planned Residential Development plan is granted Tentative Plan Approval, with or without conditions, the governing body may set forth in the official written communication the time within which an application for Final Plan Approval of the Planned Residential Development shall be filed or, in the case of a Planned Residential Development plan that provides for development over a period of years, the periods of time within which applications for Final Plan Approval of each part thereof shall be filed. Except upon the consent of the landowner, the time so established between the grant of Tentative Plan Approval and an application for Final Plan Approval shall not be less than three (3) months and, in the case of Planned Residential Development over a period of years, the time between applications for Final Plan Approval of each part of a plan shall not be less than twelve (12) months.

#### **Section 708—Status of Plan After Tentative Approval**

(A) The official written communication provided for in this Article shall be certified by the Township Secretary and shall be filed in the Secretary's office, and a certified copy shall be mailed to the landowner.

(B) 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 zoning or building permits. A development plan which has been given Tentative Approval as submitted, or which has been given Tentative Plan 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 McKean Township pending an application or applications for Final Approval, without the consent of the landowner, provided an application or applications for Final Approval is filed or, in the case of development over a period of years, provided applications are filed, within the periods of time specified in the official written communication granting Tentative Approval.

(C) In the event that a Planned Residential Development is given Tentative Approval and thereafter, but 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 or times, 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 McKean Township ordinances otherwise applicable thereto as they may be amended from time to time, and the same shall be noted in the records of the Township Secretary of McKean Township.

#### **Section 709—Application for Final Approval**

(A) An application for Final Approval may be for all the land included in a Planned Residential Development plan or, to the extent set forth in the Tentative Approval, for a section thereof. The application shall be made to the Zoning Administrator within the time or times specified by the official written communication granting Tentative Approval. The application shall include any drawings, specifications, covenants, easements, performance bond and such other requirements as may be specified, as well as any conditions set forth in the official written communication at the time of Tentative Approval.

(B) A public hearing on an application for Final Approval of a Planned Residential Development, or a part thereof, shall not be required, provided that the Planned Residential Development plan, or the part thereof, submitted for Final Approval, complies with the development plan theretofore given Tentative Approval and with any specified conditions attached thereto.

(C) 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 this Ordinance and the official written communication of Tentative Approval, McKean Township shall, within forty-five (45) days of filing of the application, grant such Planned Residential Development Plan Final Approval.

(D) In the event the Planned Residential Development plan submitted for Final Approval contains variations from the development plan given Tentative Approval, the governing body may refuse to grant Final Approval and shall, within forty-five (45) days from the filing of the application for Final Approval, so advise the landowner in writing of such refusal, setting forth the reasons why one or more of the variations contained in the Planned Residential Development plan are not in the public interest. The landowner may, thereafter, either: (a) refile the application for Final Approval without the variations objected to; or (b)



file a written request with the governing body that it hold a public hearing on the application for Final Approval.

(E) If the landowner desires to take either alternate action set forth in subparagraph D hereof, he may do so at any time within which he shall be entitled to apply for Final Approval, or within thirty (30) additional days if the time of applying for Final Approval shall have already passed at the time when the landowner was advised that the Planned Residential Development plan was not in substantial compliance. In the event the landowner fails to pursue either of the alternate actions within the specified time, the landowner shall be deemed to have been abandoned the Planned Residential Development plan.

(F) Any public hearing held on an application for Final Approval shall be held pursuant to public notice within thirty (30) days after the landowner requests such hearing, and the hearing shall be conducted in the manner prescribed in this Article for public hearings on applications for Tentative Approval. Within thirty (30) days after the conclusion of the public hearing, the governing body shall, by official written communication, either grant or deny Final Approval to the Planned Residential Development plan. The grant or denial of Final Approval of the Planned Residential Development plan shall, in cases where the decision comes as a result of a public hearing, be in the form and contain the findings required for an application for Tentative Approval as set forth in this Article. Failure of the governing body or agency to render a decision on an application for final approval and communicate it to the applicant within the time and in the manner required by this section shall be deemed an approval of the application for final approval, as presented, unless the applicant has agreed in writing to an extension of time or change in the prescribed manner of presentation of communication of the decision, in which case failure to meet the extended time or change in manner of presentation of communication shall have like effect.

(G) A Planned Residential Development plan, or any part thereof, that has been given Final Plan Approval shall be so certified without delay by the governing body and shall be filed of record in the Office of the Recorder of Deeds of Erie County before any development shall take place in accordance therewith.

(H) Upon the filing of record of the Planned Residential Development plan, the zoning and/or subdivision regulations otherwise applicable to the land included in such plan shall cease to apply to said land.

(I) Pending completion, in accordance within the provisions specified in Section 508 of the Pennsylvania Municipalities Planning Code, 53 P.S. §10508, of the Planned Residential Development or of that part thereof, as the case may be, that has been finally approved, no modification of the provisions of the Planned Residential Development plan, or part thereof, as finally approved, shall be made except with the consent of the landowner. Upon approval of a final plat, the landowner or developer shall record the plat in accordance with the provisions of and post final security in accordance with Sections 513(c) and 509 respectively, of the Pennsylvania Municipalities Planning Code, 53 P.S. §10513(a) and §10509.

(J) In the event that a Planned Residential Development plan, or a phase thereof, is given Final Approval and thereafter the landowner shall abandon such development plan, or the phase thereof that has been finally approved, and shall so notify the governing body in writing; or, in the event that the landowner shall fail to commence and carry out the Planned Residential Development with the schedule projected and approved in the application for Tentative Approval, or such amendment as subsequently mutually agreed to by the landowner and the governing body, no development or further development shall take place on the property included in the Planned Residential Development plan until after further approval by the governing body.

**Section 710 – Enforcement**

This Article shall be enforced pursuant to Sections 712.1 and 712.2 of the Municipalities Planning Code, 53 P.S. §§ 10712.1 and 10712.2, as amended.

## ARTICLE VIII—FLOOD PLAIN REGULATIONS

### Statutory Authorization

The Legislature of the Commonwealth of Pennsylvania has, by the passage of the Pennsylvania Flood Plain Management Act of 1978, delegated the responsibility to local governmental units to adopt floodplain management regulations to promote public health, safety, and the general welfare of its citizenry. Therefore, the Board of Supervisors of the Township of McKean (the “Township”) does hereby order as follows:

### Section 800—General Provisions

(A) Intent:

The intent of the regulations contained in this Article VIII (“these Regulations”) is to:

- (1) Promote the general health, welfare, and safety of McKean Township.
- (2) Encourage the utilization of appropriate construction practices in order to prevent or minimize flood damage in the future.
- (3) Minimize danger to public health by protecting water supply and natural drainage.
- (4) Reduce financial burdens imposed on McKean Township, its governmental units, and its residents, by preventing excessive development in areas subject to flooding.
- (5) Comply with federal and state floodplain management requirements.

(B) Applicability

- (1) It shall be unlawful for any person, partnership, business or corporation to undertake, or cause to be undertaken, any construction or development anywhere within McKean Township unless a Permit has been obtained from the Floodplain Administrator.
- (2) A Permit shall not be required for minor repairs to existing buildings or structures.

(C) Abrogation and Greater Restrictions

These Regulations supersede any other conflicting provisions which may be in effect in identified floodplain areas. However, any other ordinance provisions shall remain in full force and effect to the extent that those provisions are more restrictive. If there is any conflict between any of the provisions of these

Regulations or the McKean Township Zoning Ordinance (the “Ordinance”), the more restrictive shall apply.

(D) Severability

If any section, subsection, paragraph, sentence, clause, or phrase of these Regulations shall be declared invalid for any reason whatsoever, such a decision shall not affect the remaining portions of these Regulations, which shall remain in full force and effect, and for this purpose the provisions of these Regulations are hereby declared to be severable.

(E) Warning and Disclaimer of Liability

The degree of flood protection sought by the provisions of these Regulations is considered reasonable for regulatory purposes and is based on accepted engineering methods of study. Larger floods may occur or flood heights may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. These Regulations do not imply that areas outside any identified floodplain areas, or that land uses permitted within such areas will be free from flooding or flood damages.

These Regulations shall not create liability on the part of the Township or any officer or employee thereof for any flood damages that result from reliance on these Regulations or any administrative decision lawfully made thereunder.

Section 801—Administration

(A) Designation of the Floodplain Administrator

The Township Zoning Officer is hereby appointed to administer and enforce these Regulations and is referred to herein as the Floodplain Administrator. The Floodplain Administrator may: (A) Fulfill the duties and responsibilities set forth in these Regulations, (B) Delegate duties and responsibilities set forth in these Regulations to qualified technical personnel, plan examiners, inspectors, and other employees, or (C) Enter into a written agreement or written contract with another agency or private sector entity to administer specific provisions of these Regulations. Administration of any part of these Regulations by another entity shall not relieve the Township of its responsibilities pursuant to the participation requirements of the National Flood Insurance Program (“NFIP”) as set forth in the Code of Federal Regulations at 44 CFR Section 59.22.

In the absence of a designated Floodplain Administrator, the Floodplain Administrator duties are to be fulfilled by the Chairman of the Board of Supervisors.

(B) Permits Required

A Floodplain Development Permit (a “Permit”) shall be required before any construction or development is undertaken within any area of McKean Township.

(C) Duties and Responsibilities of the Floodplain Administrator

- (1) The Floodplain Administrator shall issue a Permit only after it has been determined that the proposed work to be undertaken will be in conformance with the requirements of these Regulations and all other applicable codes and ordinances.
- (2) Prior to the issuance of any Permit, the Floodplain Administrator shall review the application for the Permit to determine if all other necessary government permits required by state and federal laws have been obtained, including but not limited to those required by the Pennsylvania Sewage Facilities Act (Act 1966-537, as amended); the Pennsylvania Dam Safety and Encroachments Act (Act 1978-325, as amended); the Pennsylvania Clean Streams Act (Act 1937-394, as amended); and the U.S. Clean Water Act, Section 404, 33, U.S.C. 1344. No Permit shall be issued until this determination has been made.
- (3) During the construction period, the Floodplain Administrator or other authorized official shall inspect the premises to determine that the work is progressing in compliance with the information provided on the Permit application and with these Regulations and all applicable municipal laws and ordinances. The Floodplain Administrator shall make as many inspections during and upon completion of the work as are necessary.
- (4) In the discharge of his/her duties, the Floodplain Administrator shall have the authority to enter any building, structure, premises or development in the identified floodplain area, upon presentation of proper credentials, at any reasonable hour to enforce the provisions of these Regulations.
- (5) In the event the Floodplain Administrator discovers that the work does not comply with the Permit application, these Regulations, or any other applicable laws and ordinances, or that there has been a false statement or misrepresentation by any applicant, the Floodplain Administrator shall revoke the Permit and report such fact to the Board of Supervisors for whatever action it considers necessary.

- (6) The Floodplain Administrator shall maintain in perpetuity all records associated with the requirements of these Regulations including, but not limited to, finished construction elevation data, permitting, inspection and enforcement.
- (7) The Floodplain Administrator is the official responsible for submitting a biennial report to the U.S. Federal Emergency Management Agency (“FEMA”) concerning community participation in the National Flood Insurance Program.
- (8) The responsibility, authority and means to implement the commitments of the Floodplain Administrator can be delegated from the person identified. However, the ultimate responsibility lies with the person identified in these Regulations as the floodplain administrator/manager.
- (9) The Floodplain Administrator shall consider the requirements of Part XIV of Title 34 of the PA Code, as amended, and the 2009 International Building Code (“IBC”) and the 2009 International Residential Code (“IRC”) or latest revisions thereof to be adopted by the Pennsylvania Legislature.

(D) Application Procedures and Requirements

- (1) Application for such a Permit shall be made, in writing, to the Floodplain Administrator on forms supplied by the Township. Such application shall contain the following:
  - (a) Name and address of applicant.
  - (b) Name and address of owner of land on which proposed construction is to occur.
  - (c) Name and address of contractor.
  - (d) Site location including address and Erie County Tax Identification Number.
  - (e) Listing of other permits required.
  - (f) Brief description of proposed work and estimated cost, including a breakout of flood-related cost and the market value of the building before the flood damage occurred where appropriate.
  - (g) A plan of the site showing the exact size and location of the proposed construction as well as any existing buildings or structures.

- (2) If any proposed construction or development is located entirely or partially within any identified floodplain area, applicants for Permits shall provide all the necessary information in sufficient detail and clarity to enable the Floodplain Administrator to determine that:
- (a) all such proposals are consistent with the need to minimize flood damage and conform with the requirements of these Regulations and all other applicable codes and ordinances;
  - (b) all utilities and facilities, including but not limited to sewer, gas, electrical and water systems, are located and constructed to minimize or eliminate flood damage;
  - (c) adequate drainage is provided so as to reduce exposure to flood hazards;
  - (d) structures will be anchored to prevent floatation, collapse, or lateral movement;
  - (e) building materials are flood-resistant;
  - (f) appropriate practices that minimize flood damage have been used; and
  - (g) electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities have been designed and located to prevent water entry or accumulation.
- (3) The Applicant shall file the following minimum information plus any other pertinent information as may be required by the Floodplain Administrator to make the above determination:
- (a) A completed Permit Application Form.
  - (b) A plan of the entire site, clearly and legibly drawn at a scale of one (1) inch being equal to one hundred (100) feet or less, showing the following:
    - i. north arrow, scale, and date;
    - ii. topographic contour lines, if available;
    - iii. the location of all existing and proposed buildings, structures, and other improvements, including the location of any existing or proposed subdivision and development;

- iv. the location of all existing streets, drives, and other access ways; and
  - v. the location of any existing bodies of water or watercourses, identified floodplain areas, and, if available, information pertaining to the floodway, and the flow of water including direction and velocities.
- (c) Plans of all proposed buildings, structures and other improvements, drawn at suitable scale showing the following:
- i. the proposed lowest floor elevation of any proposed building based upon North American Vertical Datum of 1988;
  - ii. the elevation of the base flood;
  - iii. detailed information concerning any proposed floodproofing measures and corresponding elevations;
  - iv. supplemental information as may be necessary under Part XIV of Title 34 of the PA Code, as amended, and the 2009 IBC and the 2009 IRC or latest revisions thereof to be adopted by the Pennsylvania Legislature.
- (d) The following data and documentation:
- i. if available, information concerning flood depths, pressures, velocities, impact and uplift forces and other factors associated with a base flood; and Floodway Area (See Section 802(B)(1)) when combined with all other existing and anticipated development, will not increase the base flood elevation at any point.
  - ii. documentation, certified by a registered professional engineer or architect, to show that the cumulative effect of any proposed development within an AE Area/District without floodway (See Section 802 (B)(2)) when combined with all other existing and anticipated development, will not increase the base flood elevation more than one (1) foot at any point within McKean Township.
  - iii. a document, certified by a registered professional engineer or architect, which states that the proposed construction or development has been adequately designed to withstand the pressures, velocities, impact and uplift forces associated with the base flood.



Such statement shall include a description of the type and extent of flood proofing measures which have been incorporated into the design of the structure and/or the development.

- iv. detailed information needed to determine compliance with Section 803(C)(6), Storage, and Section 803(D), Development Which May Endanger Human Life, including:
  - aa. the amount, location and purpose of any materials or substances referred to in Sections 803 (C) and (D) which are intended to be used, produced, stored or otherwise maintained on site.
  - bb. description of the safeguards incorporated into the design of the proposed structure to prevent leaks or spills of the dangerous materials or substances listed in Section 803 (D) during a base flood.
- v. the appropriate component of the Department of Environmental Protection's "Planning Module for Land Development."
- vi. where any excavation or grading is proposed, a plan meeting the requirements of the Department of Environmental Protection, to implement and maintain erosion and sedimentation control.

(4) Applications for Permits shall be accompanied by a fee as established and/or revised from time to time by a Resolution of the Township Board of Supervisors, payable to McKean Township, based upon the estimated cost of the proposed construction as determined by the Floodplain Administrator.

(E) Review by County Conservation District

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

(F) Review of Application by Others

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

(G) Changes

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

(H) Placards

In addition to the Permit, the Floodplain Administrator shall issue a placard which shall be displayed on the premises during the time construction is in progress. This placard shall show the number of the Permit, the date of its issuance, and be signed by the Floodplain Administrator.

(I) Start of Construction

Work on the proposed construction or development shall begin within 180 days after the date of issuance of the Permit. Work shall also be completed within twelve (12) months after the date of issuance of the Permit or the Permit shall expire unless a time extension is granted, in writing, by the Floodplain Administrator. The issuance of a Permit does not refer to zoning approval.

The actual start of construction means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufacture home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Time extensions shall be granted only if a written request is submitted by the applicant, which sets forth sufficient and reasonable cause for the Floodplain Administrator to approve such a request and the original Permit is compliant with these Regulations and the Flood Insurance Rate Maps (“FIRM”) and Flood Insurance Study (“FIS”) in effect at the time the extension is granted.

(J) Enforcement

(1) Notices

Whenever the Floodplain Administrator or other authorized municipal representative determines that there are reasonable grounds to believe that there has been a violation of any provisions of these Regulations, the Floodplain Administrator shall give notice of such alleged violation as hereinafter provided. Such notice shall conform to Section 907 of this Ordinance and shall:

- (a) be in writing;
- (b) include a statement of the reasons for its issuance;
- (c) allow a reasonable time not to exceed a period of thirty (30) days for the performance of any act it requires;
- (d) be served upon the property owner or his agent as the case may require pursuant to Section 907 of this Ordinance;
- (e) contain an outline of remedial actions which, if taken, will effect compliance with the provisions of these Regulations.

(2) Penalties

Any person who fails to comply with any or all of the requirements or provisions of these Regulations or who fails or refuses to comply with any notice, order, or direction of the Floodplain Administrator or any other authorized employee of the Township shall pay a fine for each day of noncompliance and/or violation to McKean Township, of not less than One Hundred Dollars (\$100.00) nor more than Five Hundred Dollars (\$500.00) plus costs of prosecution, including but not limited to all attorney, engineering, and other such professional fees and costs incurred by the Township in such prosecution. In addition to the above penalties, all other actions are hereby reserved including an action in equity for the proper enforcement of these Regulations. The imposition of a fine or penalty for any violation of, or noncompliance with these Regulations shall not excuse the violation or noncompliance or permit it to continue. All such persons shall be required to correct or remedy such violations and noncompliance within a reasonable time. Any

development initiated or any structure or building constructed, reconstructed, enlarged, altered, or relocated, in noncompliance with these Regulations may be declared by the Board of Supervisors to be a public nuisance and abatable as such. See also Section 907 and Article XVI of this Ordinance.

(K) Appeals

- (1) Any person aggrieved by any action or decision of the Floodplain Administrator concerning the administration of the provisions of these Regulations may appeal to the Zoning Hearing Board. Such appeal must be filed, in writing, within thirty (30) days after the decision, determination or action of the Floodplain Administrator.
- (2) Upon receipt of such appeal the Zoning Hearing Board shall consider the appeal in accordance with this Ordinance, the Municipalities Planning Code, and any other applicable local ordinance.
- (3) Any person aggrieved by any decision of the Zoning Hearing Board may seek relief therefrom by appeal to court, as provided by this Ordinance and the laws of this State including the Pennsylvania Flood Plain Management Act.

**Section 802—Identification of Floodplain Areas**

(A) Identification

The identified floodplain area shall be:

- (1) any areas of McKean Township, classified as Special Flood Hazard Areas (SFHAs) in the Flood Insurance Study (FIS) and the accompanying Flood Insurance Rate Maps (FIRMs) dated February 19, 2014 and issued by FEMA or the most recent revision thereof, including all digital data developed as part of the Flood Insurance Study and,

The above referenced FIS and FIRMs, and any subsequent revisions and amendments thereto are hereby adopted by McKean Township and declared to be a part of these Regulations.

(B) Description and Special Requirements of Identified Floodplain Areas

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

- (1) The Floodway Area shall be those areas identified in the FIS and the FIRM as floodway and which represent the channel of a watercourse

and the adjacent land areas that must be reserved in order to discharge the base flood without increasing the water surface elevation by more than one (1) foot at any point. This term shall also include floodway areas which have been identified in other available studies or sources of information for those Special Flood Hazard Areas where no floodway has been identified in the FIS and FIRM.

- (a) Within any floodway area, no encroachments, including fill, new construction, substantial improvements, or other development shall be permitted unless it has been demonstrated through hydrologic and hydraulic analysis performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within McKean Township during the occurrence of the base flood discharge.
  - (b) Within any floodway area, no new construction or development shall be allowed, unless the appropriate permit is obtained from the Department of Environmental Protection Regional Office.
- (2) The AE Area/District shall be those areas identified as an AE Zone on the FIRM included in the FIS prepared by FEMA for which base flood elevations have been provided.
- (a) The AE Area adjacent to the floodway shall be those areas identified as an AE Zone on the FIRM included in the FIS prepared by FEMA for which base flood elevations have been provided and a floodway has been delineated.
  - (b) AE Area without floodway shall be those areas identified as an AE zone on the FIRM included in the FIS prepared by FEMA for which base flood elevations have been provided but no floodway has been determined.
    - i. No Permit shall be granted for any construction, development, use, or activity within any AE Area/District without floodway unless it is demonstrated that the cumulative effect of the proposed development would not, together with all other existing and anticipated development, increase the base flood elevation (“BFE”) more than one (1) foot at any point.
    - ii. No new construction or development shall be located within the area measured fifty (50) feet landward from the top-of-bank of any watercourse, unless the

appropriate permit is obtained from the Department of Environmental Protection Regional Office.

- (3) The A Area/District shall be those areas identified as an A Zone on the FIRM included in the FIS prepared by FEMA and for which no base flood elevations have been provided. For these areas, elevation and floodway information from other Federal, State, or other acceptable sources shall be used when available. Where other acceptable information is not available, the base flood elevation shall be determined by using the elevation of a point on the boundary of the identified floodplain area which is nearest the construction site.

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

- (4) The AO and AH Area/ District shall be those areas identified as Zones AO and AH on the FIRM and in the FIS. These areas are subject to inundation by 1-percent-annual-chance shallow flooding where average depths are between one and three feet. In Zones AO and AH, drainage paths shall be established to guide floodwaters around and away from structures on slopes.

(C) Changes in Identification of Area

The Identified Floodplain Area may be revised or modified by the Board of Supervisors, where studies or information provided by a qualified agency or person documents the need for such revision. However, prior to any such change to the Special Flood Hazard Area, approval must be obtained from FEMA. Additionally, as soon as practicable, but not later than six (6) months after the date such information becomes available, a community shall notify FEMA of the changes to the Special Flood Hazard Area by submitting technical or scientific data. See Section 803(A)(2) for situations where FEMA notification is required.

(D) Boundary Disputes

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

(E) Jurisdictional Boundary Changes

Prior to development occurring in areas where annexation or other corporate boundary changes are proposed or have occurred, the Township shall review flood hazard data affecting the lands subject to boundary changes. The Township shall adopt and enforce floodplain regulations in areas subject to annexation or corporate boundary changes which meet or exceed those in CFR 44 Section 60.3.

**Section 803—Technical Provisions**

(A) General

(1) Alteration or Relocation of Watercourse

- (a) No encroachment, alteration, or improvement of any kind shall be made to any watercourse until all adjacent municipalities which may be affected by such action have been notified by the Township, and until all required permits or approvals have first been obtained from the Department of Environmental Protection Regional Office.
- (b) No encroachment, alteration, or improvement of any kind shall be made to any watercourse unless it can be shown that the activity will not reduce or impede the flood carrying capacity of the watercourse in any way.
- (c) In addition, FEMA and the Pennsylvania Department of Community and Economic Development, shall be notified prior to any alteration or relocation of any watercourse.

(2) When the Township proposes to permit the following encroachments:

- any development that causes a rise in the base flood elevations within the floodway; or
- any development occurring in Zones A1-30 and Zone AE without a designated floodway, which will cause a rise of more than one foot in the base flood elevation; or
- alteration or relocation of a stream (including but not limited to installing culverts and bridges)

the Township shall (as per 44 CFR Part 65.12):

- (a) apply to FEMA for conditional approval of such action prior to permitting the encroachments to occur.

- (b) Upon receipt of the Administrator's conditional approval of map change and prior to approving the proposed encroachments, the Township shall provide evidence to FEMA of the adoption of floodplain management ordinances incorporating the increased base flood elevations and / or revised floodway reflecting the post-project condition.
  - (c) Upon completion of the proposed encroachments, the Township shall provide as-built certifications. FEMA will initiate a final map revision upon receipt of such certifications in accordance with 44 CFR Part 67.
- (3) Any new construction, development, uses or activities allowed within any identified floodplain area shall be undertaken in strict compliance with the provisions contained in these Regulations and any other applicable codes, ordinances and regulations.

(B) Elevation and Floodproofing Requirements

Within any Identified Floodplain Area, any new construction or substantial improvements shall be prohibited. If a variance is obtained for new construction or substantial improvements in the Identified Floodplain Area in accordance with the criteria in 806, then the following provisions apply:

- (1) Residential Structures
  - (a) In AE, A1-30, and AH Zones, any new construction or substantial improvement shall have the lowest floor (including basement) elevated up to, or above, the regulatory flood elevation.
  - (b) In A Zones, where there are no Base Flood Elevations specified on the FIRM, any new construction or substantial improvement shall have the lowest floor (including basement) elevated up to, or above, the regulatory flood elevation determined in accordance with Section 802(B)(3).
  - (c) In AO Zones, any new construction or substantial improvement shall have the lowest floor (including basement) at or above the highest adjacent grade at least as high as the depth number specified on the FIRM.
  - (d) The design and construction standards and specifications contained in the 2009 IBC and in the 2009 IRC or the most recent revisions thereof to be adopted by the Pennsylvania Legislature and ASCE 24 and Part XIV of Title 34 of the PA



Code, as amended, shall be utilized, where they are more restrictive.

(2) Non-residential Structures

- (a) In AE, A1-30 and AH Zones, any new construction or substantial improvement of a non-residential structure shall have the lowest floor (including basement) elevated up to, or above, the regulatory flood elevation, or be designed and constructed so that the space enclosed below the regulatory flood elevation:
  - i. is floodproofed so that the structure is watertight with walls substantially impermeable to the passage of water and,
  - ii. has structural components with the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy:
- (b) In A Zones, where there no Base Flood Elevations are specified on the FIRM, any new construction or substantial improvement shall have the lowest floor (including basement) elevated or completely floodproofed up to, or above, the regulatory flood elevation determined in accordance with Section 802(B)(3).
- (c) In AO Zones, any new construction or substantial improvement shall have their lowest floor elevated or completely floodproofed above the highest adjacent grade to at least as high as the depth number specified on the FIRM.
- (d) Any non-residential structure, or part thereof, made watertight below the regulatory flood elevation shall be floodproofed in accordance with the WI or W2 space classification standards contained in the publication entitled “Flood-Proofing Regulations” published by the U.S. Army Corps of Engineers (June 1972, as amended March 1992) or with some other equivalent standard. All plans and specifications for such floodproofing shall be accompanied by a statement certified by a registered professional engineer or architect which states that the proposed design and methods of construction are in conformance with the above referenced standards.
- (e) The design and construction standards and specifications contained in the 2009 IBC and in the 2009 IRC or the most recent revisions thereof to be adopted by the Pennsylvania Legislature and ASCE 24 and Part XIV of Title 34 of the PA

Code, as amended, shall be utilized, where they are more restrictive.

(3) Space below the lowest floor

- (a) Fully enclosed space below the lowest floor (excluding basements) which will be used solely for the parking of a vehicle, building access, or incidental storage in an area other than a basement, shall be designed and constructed to allow for the automatic entry and exit of flood waters for the purpose of equalizing hydrostatic forces on exterior walls. The term “fully enclosed space” also includes crawl spaces.
- (b) Designs for meeting this requirement must either be certified by a registered professional engineer or architect, or meet or exceed the following minimum criteria:
  - i. a minimum of two openings having a net total area of not less than one (1) square inch for every square foot of enclosed space.
  - ii. the bottom of all openings shall be no higher than one (1) foot above grade.
  - iii. openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

(4) Historic Structures

Historic structures undergoing repair or rehabilitation that would constitute a substantial improvement as defined in these Regulations, must comply with all Regulation requirements that do not preclude the structure’s continued designation as a historic structure. Documentation that a specific Regulation requirement will cause removal of the structure from the National Register of Historic Places or the State Inventory of Historic places must be obtained from the Secretary of the Interior or the State Historic Preservation Officer. Any exemption from Regulation requirements will be the minimum necessary to preserve the historic character and design of the structure.

(5) Accessory structures

Structures accessory to a principal building need not be elevated or floodproofed to remain dry, but shall comply, at a minimum, with the following requirements:

- (a) the structure shall not be designed or used for human habitation, but shall be limited to the parking of vehicles, or to the storage of tools, material, and equipment related to the principal use or activity.
- (b) floor area shall not exceed 200 square feet.
- (c) the structure will have a low damage potential.
- (d) the structure will be located on the site so as to cause the least obstruction to the flow of flood waters.
- (e) power lines, wiring, and outlets will be elevated to the regulatory flood elevation.
- (f) permanently affixed utility equipment and appliances such as furnaces, heaters, washers, dryers, etc. are prohibited.
- (g) sanitary facilities are prohibited.
- (h) the structure shall be adequately anchored to prevent flotation, collapse, and lateral movement and shall be designed to automatically provide for the entry and exit of floodwater for the purpose of equalizing hydrostatic forces on the walls. Designs for meeting this requirement must either be certified by a registered professional engineer or architect, or meet or exceed the following minimum criteria:
  - i. a minimum of two openings having a net total area of not less than one (1) square inch for every square foot of enclosed space.
  - ii. the bottom of all openings shall be no higher than one (1) foot above grade.
  - iii. openings may be equipped with screens, louvers, etc. or other coverings or devices provided that they permit the automatic entry and exit of flood waters.

(C) Design and Construction Standards

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

(1) Fill

Within any Identified Floodplain Area the use of fill shall be prohibited.

(2) Drainage Facilities

Storm drainage facilities shall be designed to convey the flow of storm water runoff in a safe and efficient manner. The system shall ensure proper drainage along streets, and provide positive drainage away from buildings. The system shall also be designed to prevent the discharge of excess runoff onto adjacent properties.

(3) Water and Sanitary Sewer Facilities and Systems

(a) All new or replacement water supply and sanitary sewer facilities and systems shall be located, designed and constructed to minimize or eliminate flood damages and the infiltration of flood waters.

(b) Sanitary sewer facilities and systems shall be designed to prevent the discharge of untreated sewage into flood waters.

(c) No part of any on-site waste disposal system shall be located within any identified floodplain area except in strict compliance with all State and local regulations for such systems. If any such system is permitted, it shall be located so as to avoid impairment to it, or contamination from it, during a flood.

(d) The design and construction provisions of the Pennsylvania Uniform Construction Code and FEMA #348, "Protecting Building Utilities From Flood Damages" and "The International Private Sewage Disposal Code" shall be utilized.

(4) Other Utilities

All other utilities such as gas lines, electrical and telephone systems shall be located, elevated (where possible) and constructed to minimize the chance of impairment during a flood.

(5) Streets

The finished elevation of all new streets shall be no more than one (1) foot below the Regulatory Flood Elevation.

(6) Storage

All materials that are buoyant, flammable, explosive, or in times of flooding, could be injurious to human, animal, or plant life, and not listed in Section 803(D), Development Which May Endanger Human Life, shall be stored at or above the Regulatory Flood Elevation or floodproofed to the maximum extent possible.

(7) Placement of Buildings and Structures

All buildings and structures shall be designed, located, and constructed so as to offer the minimum obstruction to the flow of water and shall be designed to have a minimum effect upon the flow and height of flood water.

(8) Anchoring

(a) All buildings and structures shall be firmly anchored in accordance with accepted engineering practices to prevent flotation, collapse, or lateral movement.

(b) All air ducts, large pipes, storage tanks, and other similar objects or components located below the regulatory flood elevation shall be securely anchored or affixed to prevent flotation.

(9) Floors, Walls and Ceilings

(a) Wood flooring used at or below the Regulatory Flood Elevation shall be installed to accommodate a lateral expansion of the flooring, perpendicular to the flooring grain without causing structural damage to the building.

(b) Plywood used at or below the regulatory flood elevation shall be of a “marine” or “water-resistant” variety.

(c) Walls and ceilings at or below the regulatory flood elevation shall be designed and constructed of materials that are “water-resistant” and will withstand inundation.

(d) Windows, doors, and other components at or below the regulatory flood elevation shall be made of metal or other “water-resistant” material.

(10) Paints and Adhesives

(a) Paints and other finishes used at or below the regulatory flood elevation shall be of “marine” or “water-resistant” quality.

(b) Adhesives used at or below the regulatory flood elevation shall be of a “marine” or “water-resistant” variety.

(c) All wooden components (doors, trim, cabinets, etc.) used at or below the regulatory flood elevation shall be finished with a “marine” or “water-resistant” paint or other finishing material.

(11) Electrical Components

- (a) Electrical distribution panels shall be at least three (3) feet above the base flood elevation.
- (b) Separate electrical circuits shall serve lower levels and shall be dropped from above.

(12) Equipment

Water heaters, furnaces, air conditioning and ventilating units, and other electrical, mechanical or utility equipment or apparatus shall not be located below the regulatory flood elevation.

(13) Fuel Supply Systems

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

(14) Uniform Construction Code Coordination

The Standards and Specifications contained Part XIV of Title 34 of the PA Code, as amended, and not limited to the following provisions shall apply to the above and other sections and sub-sections of these Regulations, to the extent that they are more restrictive and supplement the requirements of these Regulations.

International Building Code (IBC) 2009 or the latest edition thereof to be adopted by the Pennsylvania Legislature:  
Secs. 801, 1202, 1403, 1603, 1605, 1612, 3402, and Appendix G.

International Residential Building Code (IRC) 2009 or the latest edition thereof to be adopted by the Pennsylvania Legislature: Secs. R104, R105, R109, R322, Appendix E, and Appendix J.

(D) Development Which May Endanger Human Life

Within any Identified Floodplain Area, any structure of the kind described in Subsection (1), below, shall be prohibited.

- (1) In accordance with the Pennsylvania Flood Plain Management Act, and the regulations adopted by the Department of Community and Economic Development as required by the Act, any new or substantially improved structure which:

- (a) will be used for the production or storage of any of the following dangerous materials or substances; or,
- (b) will be used for any activity requiring the maintenance of a supply of more than 550 gallons, or other comparable volume, of any of the following dangerous materials or substances on the premises; or,
- (c) will involve the production, storage, or use of any amount of radioactive substances;

shall be subject to the provisions of this section, in addition to all other applicable provisions. The following list of materials and substances are considered dangerous to human life:

- Acetone
- Ammonia
- Benzene
- Calcium carbide
- Carbon disulfide
- Celluloid
- Hydrochloric acid
- Hydrocyanic acid
- Magnesium
- Nitric acid and oxides of nitrogen
- Petroleum products (gasoline, fuel oil, etc.)
- Phosphorus
- Potassium
- Sodium
- Sulphur and sulphur products
- Pesticides (including insecticides, fungicides, and rodenticides)
- Radioactive substances, insofar as such substances are not otherwise regulate

(E) Special Requirements for Subdivisions and Development

All subdivision proposals and development proposals containing at least 50 lots or at least 5 acres, whichever is the lesser, in Identified Floodplain Areas where base flood elevation data are not available, shall be supported by hydrologic and hydraulic engineering analyses that determine base flood elevations and floodway information. The analyses shall be prepared by a licensed professional engineer in a format required by FEMA for a Conditional Letter of Map Revision and Letter of Map Revision. Submittal requirements and processing fees shall be the responsibility of the applicant.

(F) Special Requirements for Manufactured Homes

Within any Identified Floodplain Area, manufactured homes shall be prohibited.

(G) Special Requirements for Recreational Vehicles

Within any Identified Floodplain Area recreational vehicles shall be prohibited.

804—Prohibited Activities

(A) General

In accordance with the administrative regulations promulgated by the Department of Community and Economic Development to implement the Pennsylvania Flood Plain Management Act, the following activities shall be prohibited within any Identified Floodplain Area:

- (1) Hospitals
- (2) Nursing homes
- (3) Jails or prisons
- (4) Residential principal structures
- (5) Commercial and Industrial principal structures
- (6) New manufactured homes parks and manufactured home subdivision, and substantial improvements thereto
- (7) Facilities necessary for emergency response, such as fire, ambulance, and police stations, civil defense preparedness buildings and facilities, emergency communications facilities, evacuation and emergency medical centers

**Section 805—Existing Structures in identified floodplain areas**

(A) Existing Structures

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



(B) Improvements

The following provisions shall apply whenever any improvement is made to an existing structure located within any Identified Floodplain Area:

- (1) No expansion or enlargement of an existing structure shall be allowed within any Floodway Area/District that would cause any increase in BFE.
- (2) No expansion or enlargement of an existing structure shall be allowed within AE Area/District without floodway that would, together with all other existing and anticipated development, increase the BFE more than one (1) foot at any point.
- (3) Any modification, alteration, reconstruction, or improvement of any kind to an existing structure to an extent or amount of fifty (50) percent or more of its market value, shall constitute a substantial improvement and shall be undertaken only in full compliance with the provisions of these Regulations.
- (4) The above activity shall also address the requirements of Part XIV of Title 34 of the PA Code, as amended, and the 2009 IBC and the 2009 IRC.
- (5) Within any Floodway Area/District (See Section 802(B)(1)), no new construction or development shall be allowed unless the appropriate permit is obtained from the Department of Environmental Protection Regional Office.
- (6) Within any AE Area/District without Floodway (See Section 802(B)(2)), no new construction or development shall be located within the area measured fifty (50) feet landward from the top-of-bank of any watercourse unless the appropriate permit is obtained from the Department of Environmental Protection Regional Office.

**Section 806--Variances**

(A) General

If compliance with any of the requirements of these Regulations would result in an exceptional hardship to a prospective builder, developer or landowner, the McKean Township Zoning Hearing Board (“ZHB”) may, upon request, grant relief from the strict application of the requirements.

(B) Variance Procedures and Conditions

Requests for variances shall be considered by the ZHB in accordance with the procedures contained in Section 801(K), Article X of this Ordinance, and the following:

- (1) No variance shall be granted within any Identified Floodplain Area that would cause any increase in BFE. In A Area/District, BFEs are determined using the methodology in Article 802(B)(3).
- (2) Except for a possible modification of the regulatory flood elevation requirement involved, no variance shall be granted for any of the other requirements pertaining specifically to development regulated by Prohibited Activities (Section 804) or to Development Which May Endanger Human Life (Section 803(D)).
- (3) If granted, a variance shall involve only the least modification necessary to provide relief.
- (4) In granting any variance, the ZHB shall attach whatever reasonable conditions and safeguards it considers necessary in order to protect the public health, safety, and welfare, and to achieve the objectives of these Regulations.
- (5) Whenever a variance is granted, the ZHB shall notify the applicant in writing that:
  - (a) The granting of the variance may result in increased premium rates for flood insurance.
  - (b) Such variances may increase the risks to life and property.
- (6) In reviewing any request for a variance, the ZHB shall consider, at a minimum, the following:
  - (a) That there is good and sufficient cause.
  - (b) That failure to grant the variance would result in exceptional hardship to the applicant.
  - (c) That the granting of the variance will
    - i. neither result in an unacceptable or prohibited increase in flood heights, additional threats to public safety, or extraordinary public expense,

- ii. nor create nuisances, cause fraud on, or victimize the public, or conflict with any other applicable state or local ordinances and regulations.

- (7) A complete record of all variance requests and related actions shall be maintained by McKean Township. In addition, a report of all variances granted during the year shall be included in the annual report to the FEMA.

Notwithstanding any of the above, however, all structures shall be designed and constructed so as to have the capability of resisting the one-percent (1%) annual chance flood.

### **Section 807—Definitions**

#### (A) General

Unless specifically defined below, words and phrases used in these Regulations shall be interpreted so as to give these Regulations their most reasonable application.

#### (B) Specific Definitions

**Accessory use or structure** - a use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.

**Base flood** - a flood which has a one percent chance of being equaled or exceeded in any given year (also called the “100-year flood” or one-percent (1%) annual chance flood).

**Base flood discharge** - the volume of water resulting from a Base Flood as it passes a given location within a given time, usually expressed in cubic feet per second (cfs).

**Base flood elevation (BFE)** - the elevation shown on the Flood Insurance Rate Map (FIRM) for Zones AE, AH, A1-30 that indicates the water surface elevation resulting from a flood that has a 1-percent or greater chance of being equaled or exceeded in any given year.

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

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

**Development** - any man-made change to improved or unimproved real estate, including but not limited to the construction, reconstruction, renovation, repair,

expansion, or alteration of buildings or other structures; the placement of manufactured homes; streets, and other paving; utilities; filling, grading and excavation; mining; dredging; drilling operations; storage of equipment or materials; and the subdivision of land.

**Existing manufactured home park or subdivision** – a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

**Expansion to an existing manufactured home park or subdivision** – the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

**Flood** - a temporary inundation of normally dry land areas.

**Flood Insurance Rate Map (FIRM)** - the official map on which the Federal Emergency Management Agency has delineated both the areas of special flood hazards and the risk premium zones applicable to McKean Township.

**Flood Insurance Study (FIS)** - the official report provided by the Federal Emergency Management Agency that includes flood profiles, the Flood Insurance Rate Map, the Flood Boundary and Floodway Map, and the water surface elevation of the base flood.

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

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

**Floodway** - the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

**Highest Adjacent Grade:** The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

**Historic structures** – any structure that is:

- (1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- (3) Individually listed on a state inventory of historic places in states which have been approved by the Secretary of the Interior; or
- (4) Individually listed on a local inventory of historic places in communities with historic preservation that have been certified either:
  - (a) By an approved state program as determined by the Secretary of the Interior or
  - (b) Directly by the Secretary of the Interior in states without approved programs.

**Identified Floodplain Area** - This term is an umbrella term that includes all of the areas within which the Township has selected to enforce floodplain regulations. It will always include the area identified as the Special Flood Hazard Area on the Flood Insurance Rate Maps and Flood Insurance Study, but may include additional areas identified by the Township. See Section 802(A) and (B)

for the specifics on what areas of McKean Township are included in the Identified Floodplain Area.

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

**Manufactured home** - a structure, transportable in one or more sections, which is built on a permanent chassis, and is designed for use with or without a permanent foundation when attached to the required utilities. The term

includes park trailers, travel trailers, recreational and other similar vehicles which are placed on a site for more than 180 consecutive days.

**Manufactured home park or subdivision** – a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

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

**New construction** - structures for which the start of construction commenced on or after December 10, 2013 and includes any subsequent improvements to such structures. Any construction started after July 16, 1980 and before December 10, 2013 is subject to the ordinance in effect at the time the permit was issued, provided the start of construction was within 180 days of permit issuance.

**New manufactured home park or subdivision** – a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by the Township.

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

**Post-FIRM Structure** - is a structure for which construction or substantial improvement occurred after December 31, 1974 or on or after McKean Township's initial Flood Insurance Rate Map (FIRM) dated July 16, 1980, whichever is later, and, as such, would be required to be compliant with the regulations of the National Flood Insurance Program.

**Pre-FIRM Structure** - is a structure for which construction or substantial improvement occurred on or before December 31, 1974 or before McKean Township's initial Flood Insurance Rate Map (FIRM) dated July 16, 1980, whichever is later, and, as such, would not be required to be compliant with the regulations of the National Flood Insurance Program.

**Recreational vehicle** - a vehicle which is:

- (a) built on a single chassis;
- (b) not more than 400 square feet, measured at the largest horizontal projections;
- (c) designed to be self-propelled or permanently towable by a light-duty truck or similar vehicle,
- (d) not designed for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

**Regulatory flood elevation** - the base flood elevation (BFE) or estimated flood height as determined using simplified methods plus a freeboard safety factor of one and one-half (1 ½) feet.

**Special Permit** - a special approval which is required for hospitals, nursing homes, jails, and new manufactured home parks/ subdivisions and substantial improvements to such existing parks, when such development is located in all, or a designated portion of a floodplain.

**Special flood hazard area (SFHA)** - means an area in the floodplain subject to a 1 percent or greater chance of flooding in any given year. It is shown on the FIRM as Zone A, AO, A1-A30, AE, A99, or, AH.

**Start of construction** - includes substantial improvement and other proposed new development and means the date the Permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days after the date of the Permit and shall be completed within twelve (12) months after the date of issuance of the Permit unless a time extension is granted, in writing, by the Floodplain Administrator. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufacture home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

**Structure** – a walled and roofed building, including a gas or liquid storage tank that is principally above ground, as well as a manufactured home.

**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 acres, not involving any new street or easement of access or any residential dwelling, shall be exempted.

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

**Substantial improvement** - any reconstruction, rehabilitation, addition, or other improvement of a structure, of which the cost equals or exceeds fifty (50) percent of the market value of the structure before the “start of construction” of the improvement. This term includes structures which have incurred “substantial damage” regardless of the actual repair work performed. The term does not, however, include any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions.

**Uniform Construction Code (UCC)** – The statewide building code adopted by The Pennsylvania General Assembly in 1999 applicable to new construction in all municipalities whether administered by the Township, a third party or the Department of Labor and Industry. Applicable to residential and commercial buildings, The Code adopted The International Residential Code (IRC) and the International Building Code (IBC), by reference, as the construction standard applicable with the State floodplain construction. For coordination purposes, references to the above are made specifically to various sections of the IRC and the IBC.

**Variance** - A grant of relief by the McKean Township Zoning Hearing Board from the terms of a floodplain management regulation.

**Violation** - means the failure of a structure or other development to be fully compliant with the McKean Township floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in 44 CFR §60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided.



## **ARTICLE IX--ADMINISTRATION AND ENFORCEMENT**

### **Section 900--Zoning Officer**

The Supervisors of McKean Township shall appoint the Zoning Officer, who shall administer and enforce the provisions of this Ordinance, and who shall not hold an elective office within the township.

### **Section 901--Powers and Duties of Zoning Officer**

The Zoning Officer shall enforce all provisions of the Zoning Ordinance and shall have such duties and powers as are conferred on him by the Zoning Ordinance and are reasonably implied for that purpose.

- (A) Applications and Zoning Permits: The Zoning Officer shall receive applications for Zoning Permits in accordance with this Zoning Ordinance, applications for Special Exception and Conditional Uses, Applications for land use appeals, and other such applications as may be provided for or required under this Ordinance. (amended July 7, 2005, Ordinance No. 3-05)
- (B) Administration of Zoning Ordinance: The Zoning Officer shall administer this Zoning Ordinance in accordance with its literal terms, and shall not have the power to issue a Zoning Permit or to permit any use or change of use which does not conform to this Zoning Ordinance. (added July 7, 2005, Ordinance No. 3-05)
- (C) Right to Enter and to Examine: The Zoning Officer may examine or cause to be examined all structures and/or land and shall have the right at any reasonable time to enter upon the premises for the purpose of making an inspection necessary to carry out the Zoning Officer's duties, with the permission of the landowner or occupant, or pursuant to a search warrant. (amended July 7, 2005, Ordinance No. 3-05)
- (D) Issue Permits: The Zoning Officer shall issue permits as provided in this Ordinance, and keep a record of all permits issued, with a notation of all special conditions involved. The Zoning Officer shall file and safely keep copies of all plans submitted and the same shall form a part of the records of his office. Such records shall be available for the use of the legislative officials, the Planning Commission, the Zoning Hearing Board, and the public. (amended July 7, 2005, Ordinance No. 3-05)
- (E) Non-Conforming Use: The Zoning Officer shall identify and keep an up-to-date register of all non-conforming uses and non-conforming structures. (amended July 7, 2005, Ordinance No. 3-05)

- (F) Enforcement Notices: The Zoning Officer shall issue Enforcement Notices in accordance with Section 616.1 of the Municipalities Planning Code, 53 P.S. § 10616.1, as amended. (added July 7, 2005, Ordinance No. 3-05)

### **Section 902--Building and Zoning Permits**

- (A) Zoning Permits: No zoning permit shall be issued until the Zoning Officer has certified thereon that the proposed use or the proposed building, structure and/or alteration and the proposed use thereof comply with the terms of this Zoning Ordinance. (amended July 7, 2005, Ordinance No. 3-05)
- (B) Requirements: Until the Zoning Officer has issued a zoning permit applicable thereto, no person shall:
- (1) Occupy or use any vacant land; or
  - (2) Occupy or use any structures hereafter reconstructed, moved, altered or enlarged; or
  - (3) Change the use of a structure or land to a different use; or
  - (4) Change a non-conforming use.
- (C) Expiration of Zoning Permit: The zoning permit shall expire one year from the date of its issuance. Thereafter, renewal shall be required for each successive six-month period.
- (D) Building Permits: Until the Zoning Officer has issued a Zoning Permit and a Code Administrator has issued a Building Permit applicable thereto, no person shall: (amended July 7, 2005, Ordinance No. 3-05)
- (1) Excavate for a foundation; or
  - (2) Erect, construct or structurally alter any structure or part of a structure or occupy a street, highway, or alley with building materials or temporary structures for construction purposes.

### **Section 903--Certificate of Occupancy**

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

- (A) No building or structure hereinafter erected or pursuant to a Building Permit shall be used or occupied until a Code Administrator issues a Certificate of Occupancy therefore. The Code Administrator shall provide a copy of the Certificate of Occupancy to the Zoning Officer within five (5) days of the date of its issuance. (amended July 7, 2005, Ordinance No. 3-05)
- (B) A certificate of occupancy for the use or occupancy of vacant land, or for the change in the use of land, or for the change in use of existing buildings, shall be applied for and issued before any such use of the land shall be made, with such land or buildings changed in use and said certificate shall be issued within ten (10) days after the application has been made, provided such use is in conformity with the provisions of this Ordinance.
- (C) A like certificate shall be applied for and issued for maintaining, renewing, changing or extending a non-conforming use existing at the time of the passage of this Ordinance; and such certificate shall state that the use does not conform with the provisions of this Ordinance. For complying with this requirement, the Zoning Officer shall mail such certificate to the owner of such property within six months after the passage of this Ordinance.

**Section 904--Record keeping**

A record of all Certificates of Occupancy and Zoning Permits shall be kept on file in the office of the Zoning Officer. Copies of such Certificates and Permits shall be furnished upon written request in accordance with McKean Township's policy on public records under the Right to Know Act as amended. (amended July 7, 2005, Ordinance No. 3-05)

**Section 905--Fees**

Filing fees will be in accordance with a schedule affixed by resolution of the McKean Township Supervisors.

**Section 906--Information Required on Applications**

Every application for a Zoning Permit or certificate of occupancy shall be accompanied by sufficient information in complete and understandable form to enable the Zoning Officer to determine that a proposed structure or use of land conforms to the provisions of this Ordinance, including a plat drawn to scale showing: (amended July 7, 2005, Ordinance No. 3-05)

- (A) The lot upon which the building is proposed to be erected or altered, including the actual dimensions of each lot to be built upon.

- (B) Location, lot and block number and subdivision name, if any, and ownership of the lot and abutting property.
- (C) The name and width of abutting streets or roads.
- (D) Location, dimension, yards and uses of any existing buildings or structure on the lot and/or within one hundred (100) feet of the proposed structure.
- (E) The location, dimension, yards and proposed uses of buildings for which the permit is sought.
- (F) The North point in scale.
- (G) Such other information, including existing or required fences or hedges in landscaping, lot corners, stakes placed by a registered engineer or land surveyor or one permitted to practice surveying in Pennsylvania, as may be required.
- (H) In agricultural districts, buildings or structures shall be designated on the plot plan as being located a distance from the boundary line of the property in question and from the center line of the highway.
- (I) The Zoning Officer shall act upon the completed application within ten (10) days of its receipt.

### **Section 907—Enforcement**

- (1) Enforcement Notice: Whenever the Zoning Officer or other authorized municipal representative determines that there are reasonable grounds to believe that there has been a violation of any provisions of this Zoning Ordinance, or of any regulation adopted pursuant thereto, such authority shall issue a written Enforcement Notice of such alleged violation as hereinafter provided. Such written notice shall:
  - (a) Identify the owner of record and any other person against whom the municipality intends to take action;
  - (b) Identify the location of the property;
  - (c) Include a statement of the reasons for its issuance, including the specific violation with a description of the requirements which have not been met, citing in each instance the applicable provision(s) of this Zoning Ordinance which are alleged to have been violated, and the steps necessary to come into compliance;

- (d) State the date before which the steps for compliance must be commenced and the date before which the steps must be completed;
- (e) State that the recipient of the Enforcement Notice has the right to appeal the decision of the Zoning Hearing Board within thirty (30) days of the Date of Issuance of the Enforcement Notice;
- (f) State that failure to comply with or appeal the Enforcement Notice to the Zoning Hearing Board shall constitute a violation, with possible sanctions clearly described;
- (g) Be served upon the property owner or his agent as the case may require; provided, however, that Enforcement Notice shall be deemed to have been properly served upon such owner or agent when a copy thereof has been personally served upon the said owner or agent, or upon delivery of the Enforcement Notice to the said owner or agent by Certified U.S. Mail, Return Receipt Requested.

(2) Appeals and Hearings:

- (a) The recipient shall have the right to appeal the Enforcement Notice in writing to the Zoning Hearing Board, within thirty (30) days of the Date of Issuance of the Enforcement Notice. Such appeals and hearings thereon shall be conducted in accordance with Article X of this Zoning Ordinance and the Municipalities Planning Code.
- (b) Any person aggrieved by any decision of the McKean Township Zoning Hearing Board may seek relief therefrom as set forth in Article X of this Zoning Ordinance and the Municipalities Planning Code.

(3) Penalties: See Article XVI.

## **ARTICLE X--ZONING HEARING BOARD**

### **Section 1000--Creation and Appointment**

The Zoning Hearing Board is hereby created. The membership of said board shall consist of three residents of the Township of McKean appointed by resolution by the McKean Township Supervisors. Their terms of office shall be three years and shall be so fixed that the term of office of one member shall expire each year. The Zoning Hearing Board shall promptly notify the Township Supervisors of any vacancies which occur. Appointments to fill vacancies shall be only for the unexpired portion of the term. Members of the Zoning Hearing Board shall hold no other office in McKean Township. (amended December 1, 1994, Ordinance No. 4-94)

The Board of Supervisors may appoint by resolution at least one, but no more than three residents of McKean Township to serve as alternate members of the board. The term of office of an alternate member shall be three years. When seated pursuant to the provisions of Section 902 of the McKean Township Zoning Ordinance, an alternate shall be entitled to participate in all proceedings and discussions of the board to the same and full extent as provided by law for board members, including specifically the right to cast a vote as a voting member during the proceedings, and shall have all the powers and duties as provided in the Pennsylvania Municipalities Planning Code, as reenacted and amended, and as otherwise provided by law. Alternates shall hold no other office in McKean Township, including membership on the planning commission and zoning officer. Any alternate may participate in any proceeding or discussion of the board but shall not be entitled to vote as a member of the board unless designated as a voting alternate member pursuant to Section 1002 of the McKean Township Zoning Ordinance. (added December 1, 1994, Ordinance No. 4-94)

### **Section 1001--Removal of Member**

Any Zoning Hearing Board member may be removed for malfeasance or nonfeasance in office or other just cause by a majority vote of the Township Supervisors taken after the member has received fifteen (15) days advance notice of the intent to take such vote. A hearing shall be held in connection with the vote if the member shall request it in writing.

### **Section 1002--Organization of the Zoning Hearing Board**

- (A) The board shall elect from its own membership its officers, who shall serve annual terms as such and may succeed themselves. For the conduct of any hearing and the taking of any action, a quorum shall be not less than a majority of all the members of the board, but the board may appoint a hearing officer from its own membership to conduct any hearing on its behalf and the parties may waive further action by the board as provided in Section 1003 of the McKean Township Zoning Ordinance.
- (B) If, by reason of absence or disqualification of a member, a quorum is not reached, the chairman of the board shall designate as many alternate

members of the board to sit on the board as may be needed to provide a quorum. Any alternate member of the board shall continue to serve on the board in all proceedings involving the matter or case for which the alternate was initially appointed until the board has made a final determination of the matter or case. Designation of an alternate pursuant to this section shall be made on a case-by-case basis in rotation according to declining seniority among all alternates.

- (C) The board may make, alter and rescind rules and forms for its procedure, consistent with ordinances of McKean Township and laws of the Commonwealth of Pennsylvania. The board shall keep full public records of its business, which records shall be the property of McKean Township, and shall submit a report of its activities to the Board of Supervisors of McKean Township as requested by the Board of Supervisors of McKean Township.

**Section 1003--Hearings** (amended December 1, 1994, Ordinance No. 4-94)

The board shall conduct hearings and make decisions in accordance with the following requirements:

- (A) Public notice shall be given and written notice shall be given to the applicant, the zoning officer, property owners within two hundred (200) feet from exterior limits of the affected tract of land, such other persons as the Board of Supervisors shall designate by ordinance, and to any person who has made timely request for the same. Written notices shall be given at such time and in such manner as shall be prescribed by rules of the board. In addition to the written notice provided herein, written notice of said hearing shall be conspicuously posted on the affected tract of land at least one week prior to the hearing.
- (B) The Board of Supervisors shall prescribe fees with respect to hearings before the Zoning Hearing Board, and the applicant or appellant, as the case may be, shall pay the prescribed fees at a time of making application for the said hearing. The date of the said application shall be the date that the prescribed fees are paid in full by the applicant or appellant, as the case may be.
- (C) The hearing shall be held within sixty (60) days from the date of the applicant's or appellant's request, as the case may be, unless the applicant or appellant has agreed in writing to an extension of time.
- (D) The hearings shall be conducted by the board or the board may appoint any member as a hearing officer. The decision, or, where no decision is called for, the findings shall be made by the board; however, the appellant or the applicant, as the case may be, in addition to McKean Township,

may, prior to the decision of the hearing, waive decision or findings by the board and accept the decision or findings of the hearing officer as final.

- (E) The parties to the hearing shall be McKean Township, any person affected by the application who has made timely appearance of record before the board, and any other person including civic or community organizations permitted to appear by the board. The board shall have the power to require that all persons who wish to be considered parties enter appearances in writing on forms provided by the board for that purpose.
- (F) The chairman or acting chairman of the board or the hearing officer presiding shall have power to administer oaths and issue subpoenas to compel the attendance of witnesses and the production of relevant documents and papers, including witnesses and documents requested by the parties.
- (G) The parties shall have the right to be represented by counsel and shall be afforded the opportunity to respond and present evidence and argument and cross-examine adverse witnesses on all relevant issues.
- (H) Formal rules of evidence shall not apply, but irrelevant, immaterial, or unduly repetitious evidence may be excluded.
- (I) The board or the hearing officer, as the case may be, shall keep a stenographic record of the proceedings. The appearance fee for a stenographer shall be shared equally by the applicant/appellant and the board. The cost of the original transcript shall be paid by the board if the transcript is ordered by the board or hearing officer; or the cost of the original transcript shall be paid by the person appealing from the decision of the board if such appeal is made; and, in either event, the cost of additional copies shall be paid by the person requesting such copy or copies. In all other cases the party requesting the original transcript shall bear the cost thereof.
- (J) The board or the hearing officer shall not communicate, directly or indirectly, with any party or his representatives in connection with any issue involved except upon notice and opportunity for all parties to participate, shall not take notice of any communication, reports, staff memoranda, or other materials, except advice from their solicitor, unless the parties are afforded an opportunity to contest the material so noticed and shall not inspect the site or its surroundings after the commencement of hearings with any party or his representative unless all parties are given an opportunity to be present.



- (K) The board or the hearing officer, as the case may be, shall render a written decision, or, when no decision is called for, make written findings on the application within forty-five (45) days after the last hearing before the board or hearing officer. Where the application is contested or denied, each decision shall be accompanied by findings of fact and conclusions based thereon together with the reasons therefor. Conclusions based on any provisions of the Pennsylvania Municipalities Planning Code, as reenacted and amended, or on any provisions of any ordinance, rule or regulation shall contain a reference to the provision relied on and the reasons why the conclusion is deemed appropriate in the light of the facts found. If the hearing is conducted by a hearing officer, and there has been no stipulation that his decision or findings are final, the board shall make his report and recommendations available to the parties within forty-five (45) days and the parties shall be entitled to make written representations thereon to the board prior to final decision or entry of findings, and the board's decision shall be entered no later than thirty (30) days after the report of the hearing officer. Where the board fails to render the decision within the period required by this subsection, or fails to hold the required hearing within sixty (60) days from the date of the applicant's request for a hearing, the decision shall be deemed to have been rendered in favor of the applicant unless the applicant has agreed in writing or on the record to an extension of time. When a decision has been rendered in favor of the applicant because of the failure of the board to meet or render a decision as hereinabove provided, the board shall give public notice of said decision within ten (10) days from the last day it could have met to render a decision in the same manner as provided in subsection (A) of this section. If the board shall fail to provide such notice, the applicant may do so. Nothing in this subsection shall prejudice the right of any party opposing the application to appeal the decision to a court of competent jurisdiction.
- (L) 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. To all other persons who have filed their name and address with the board not later than the last day of the hearing, the board shall provide by mail or otherwise, brief notice of the decision or findings and a statement of the place at which the full decision or findings may be examined.

**Section 1004--Jurisdiction** (amended December 1, 1994, Ordinance No. 4-94)

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

- (A) Substantive challenges to the validity of any land use ordinance, except those brought before the Board of Supervisors pursuant to Section 609.1

(dealing with landowner curative amendments) and Section 916.1(a)(2) (dealing with challenging the validity of an ordinance or map or any provision thereof which prohibits or restricts the use or development of land) of the Pennsylvania Municipalities Planning Code, as reenacted and amended.

- (B) Challenges to the validity of a land use ordinance raising procedural questions or alleged defects in the process of enactment or adoption which challenges shall be raised by an appeal taken within thirty (30) days after the effective date of said ordinance.
- (C) Appeals from the determination of the zoning officer, including, but not limited to, the granting or denial of any permit, or failure to act on the application therefor, the issuance of any cease and desist order or the registration or refusal to register any nonconforming use, structure or lot.
- (D) Appeals from a determination by McKean Township's engineering firm or the zoning officer with reference to the administration of any flood plain or flood hazard ordinance or such provisions within a land use ordinance.
- (E) Applications for variances from the terms of the Zoning Ordinance of McKean Township and flood hazard ordinance or such provisions within a land use ordinance, pursuant to Section 1005 of the Zoning Ordinance of McKean Township.
- (F) Applications for special exceptions under the Zoning Ordinance of McKean Township or flood plain or flood hazard ordinance or such provisions within a land use ordinance, pursuant to Section 1005.2 of the Zoning Ordinance of McKean Township.
- (G) Appeals from the determination of any officer or agency charged with the administration of any transfers of development rights or performance density provisions of the Zoning Ordinance of McKean Township.
- (H) Appeals from the zoning officer's determination under Section 916.2 (dealing with procedures to obtain a preliminary opinion) of the Pennsylvania Municipalities Planning Code, as reenacted and amended.
- (I) Appeals from the determination of the zoning officer or McKean Township's engineering firm in the administration of any land use ordinance or provision thereof with reference to sedimentation and erosion control and storm water management insofar as the same relate to development not involving Subdivision and Land Development or Planned Residential Development applications.

**Section 1005--Zoning Hearing Board's Functions: Variances** (amended December 1, 1994, Ordinance No. 4-94)

- (A) The board shall hear requests for variances where it is alleged that the provisions of the Zoning Ordinance of McKean Township inflict unnecessary hardship upon the applicant. The board may by rule prescribe the form of application and may require preliminary application to the zoning officer. The board may grant a variance, provided that all of the following findings are made where relevant in a given case:
- (1) That there are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property and that the unnecessary hardship is due to such conditions and not the circumstances or conditions generally created by the provisions of the Zoning Ordinance of McKean Township in the neighborhood or district in which the property is located.
  - (2) That because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the Zoning Ordinance of McKean Township and that the authorization of a variance is therefore necessary to enable the reasonable use of the property.
  - (3) That such unnecessary hardship has not been created by the appellant.
  - (4) That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property, nor been detrimental to the public welfare.
  - (5) That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible of the regulation in issue.
- (B) In granting any variance, the board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of the Zoning Ordinance of McKean Township.

**Section 1005.1--Procedure for Processing Requests for Variances** (added December 1, 1994, Ordinance No. 4-94)

- (A) The procedure for processing all requests for variances shall be as follows:
  - (1) The applicant shall file a written request for a variance with the Zoning Officer together with all maps, plans, and texts which may be relevant to the request. The written request for a variance shall be accompanied by payment in full of the fee specified by the McKean Township Supervisors; and the request for a variance shall not be duly filed until the Zoning Officer receives the said written request and the payment in full of the fee as provided in this subsection.
  - (2) Upon receipt of a duly filed request for a variance, the Zoning Officer shall transmit the same and its accompanying documents filed simultaneously therewith by the applicant to the Zoning Hearing Board. The Zoning Officer also shall transmit the Zoning Officer's file and records, if any, regarding the matter in issue to the Zoning Hearing Board.
  - (3) Upon receipt of a duly filed request for a variance, the Zoning Hearing Board shall proceed in accordance with the provisions of Section 903 of the Zoning Ordinance of McKean Township.

**Section 1005.2--Zoning Hearing Board's Functions: Special Exceptions** (added December 1, 1994, Ordinance No. 4-94)

- (A) Where the provisions of the Zoning Ordinance of McKean Township provide for specific uses by special exception within particular zoning districts in McKean Township, the Zoning Hearing Board shall have the power to hear and decide requests for such special exceptions. The board shall base its decision on the following express standards and criteria, and it may grant a special exception, provided all of the following express standards and criteria are met where relevant in a given case:
  - (1) The proposed use shall not be inconsistent with the purposes of the Zoning Ordinance of McKean Township as set forth in Section 101.
  - (2) The proposed use shall not be inconsistent with the specific intent and purpose of the zoning district where the proposed use will be located.

- (3) The proposed use shall be specifically listed as a use by special exception for the zoning district where the proposed use will be located, pursuant to Exhibit "A" of the Zoning Ordinance of McKean Township.
- (4) The proposed use shall be compatible with adjacent uses and structures.
- (5) The proposed use shall be suited to the topography and other characteristics of the site.
- (6) The proposed use shall comply with all other provisions and regulations of the Zoning Ordinance of McKean Township including, but not limited to, off-street parking requirements and all regulations specific to the particular special exception for which application is made.
- (7) The proposed use shall be designed, located and proposed to be operated so that the public health, safety, welfare, and convenience shall be protected.
- (8) The proposed use shall not cause substantial injury to the value of other property in the neighborhood where the proposed use will be located.
- (9) The proposed use shall not be inconsistent with adjoining development and the over-all character of the zoning district where the proposed use will be located.
- (10) Adequate off-street parking and loading shall be provided, and ingress and egress shall be designed so as to cause minimum interference with the traffic on abutting streets.
- (11) The proposed use shall conform with all applicable regulations governing the zoning district where the proposed use will be located, except as may otherwise be determined for planned building groups or projects.
- (12) The proposed use shall not overcrowd the land.
- (13) The proposed use shall not create an undue concentration of properties.
- (14) The proposed use shall not increase the danger of fire.

(15) The proposed use shall not create any hazardous traffic conditions.

(B) In granting a special exception, the board may attach such reasonable conditions and safeguards, in addition to those expressed in the ordinances of McKean Township, as it may deem necessary to implement the purposes of those ordinances and of the Pennsylvania Municipalities Planning Code, as reenacted and amended.

**Section 1005.3--Procedure for Processing Requests for Special Exceptions** (added December 1, 1994, Ordinance No. 4-94)

The procedure for processing all requests for special exceptions shall be in accordance with the provisions of Section 1005.1 of the McKean Township Zoning Ordinance.

**Section 1005.4--Functions: Performance Standards** (added December 1, 1994, Ordinance No. 4-94)

In cases involving performance standards, the Zoning Hearing Board may require a plan of the proposed construction or development, a description of machinery proposed, and specifications for the mechanisms and techniques to be used. The Zoning Hearing Board may obtain qualified expert consultants to testify as to whether a proposed use will conform to the performance requirements. The cost of such services shall be borne by the applicant.

**Section 1006--Non-Conforming Uses**

The Board shall have the power to authorize changes of law for non-conforming uses as follows:

- (A) A non-conforming use which occupies a portion of a structure or premises may be extended within the structure or premises as they existed when the prohibitory provision took effect, but not in violation of the area and yard requirements of the district in which such structure or premises are located.
- (B) The Board may impose such conditions as it deems necessary for the protection of adjacent property and public interest.

**Section 1007--Time Limitations** (amended December 1, 1994, Ordinance No. 4-94)

- (A) No person shall be allowed to file any proceeding with the Zoning Hearing Board later than thirty (30) days after an application for development, preliminary or final, has been approved by an appropriate McKean Township 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, then 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 for a Planned Residential Development as set forth in Section 709 of the Pennsylvania Municipalities Planning Code, as reenacted and amended, 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 Pennsylvania Municipalities Planning Code, as reenacted and amended, shall preclude an appeal from a final approval except in the case where the final submission substantially deviates from the approved tentative approval.

- (B) All appeals from determinations adverse to the landowners shall be filed by the landowner within thirty (30) days after notice of the determination is issued.

**Section 1008--Appeals** (amended December 1, 1994, Ordinance No. 4-94)

The procedures set forth in Article X-A of the Pennsylvania Municipalities Planning Code, as reenacted and amended, shall constitute the exclusive mode for securing review of any decision rendered or deemed to have been made under Article X of the Zoning Ordinance of McKean Township.

## ARTICLE XI--CONDITIONAL USES

### Section 1100--General

Conditional Uses may be permitted or denied by the Township Supervisors after recommendations by the Planning Commission in accordance with the following criteria and provisions:

### Section 1101--Application

Applications for Conditional Uses will be filed with the Zoning Officer and shall be accompanied by:

- (A) Fee: An application fee in an amount equal to that established by the Township Supervisors.
- (B) Plans: Five copies of a site plan and supporting data which shows the size, location, and topography of the site, the use of adjacent land, the proposed size, bulk, use and location of buildings; the location and proposed function of all yards, open spaces, parking areas, driveways, storage areas and accessory structures; the location of all utilities, and the provisions for all parking, moving or loading of vehicles and the timing of construction proposed.

### Section 1102—Review

The Zoning Officer shall forward a copy of the application to the Township Supervisors and to the Planning Commission for review and approval.

- (A) The Planning Commission shall forward its recommendation within forty (40) days unless the petitioner agrees in writing to a time extension and failure to act within the allotted time shall be deemed to be a favorable recommendation.
- (B) Conditions: The Township Supervisors may, in addition to those specifically provided in this Ordinance, attach such reasonable conditions and safeguards as it determines is necessary to meet the intent of this Ordinance, to protect adjacent property, and to further the public interest. All development, construction and use shall be in accordance with the approved plan and all attached conditions, unless a revised plan is submitted and approved. Any development contrary to the approved plan shall constitute a violation of this Ordinance.

### Section 1103--Criteria for Approval

A Conditional Use shall be approved only if it meets the following criteria:



- (A) The proposed use conforms to the district and conditional use provisions and all general regulations of this Ordinance.
- (B) Special Standards: The proposed use meets all special standards which may apply to its class of conditional use as set forth in this article.
- (C) Performance Standards: The proposed use shall not involve any element or cause any condition that may be dangerous, injurious, or noxious to any other property or persons, and shall comply with the Performance Standards of Section 617.
- (D) Relationship: The proposed use shall be sited, oriented and landscaped to produce a harmonious relationship of buildings and grounds to adjacent buildings and properties.
- (E) Environment: The proposed use shall produce a total visual impression and environment which is consistent with the environment of the neighborhood.
- (F) Screening: A non-residential use proposed in a residential district shall be adequately screened from residential areas as deemed appropriate by the Township Supervisors.
- (G) Parking: Adequate off-street parking shall be provided in accordance with this Ordinance. No off-street parking area for a non-residential use shall be closer than ten (10) feet to any adjacent lot in a residential district.
- (H) Access: The proposed use shall organize vehicular access and parking to minimize traffic congestion in the neighborhood. Access to off-street parking areas shall be limited to several well-defined locations, and in no case shall there be unrestricted access along the length of a street or alley.
- (I) Objectives: The proposed use shall preserve the objectives of this Ordinance.

**Section 1104--Public Notice and Hearing** (amended April 7, 2011, Ordinance No. 1-11)

- (A) Public notice shall be given and written notice shall be given to the applicant, the zoning officer, property owners within two hundred (200) feet from exterior limits of the affected tract of land, such other persons as the Board of Supervisors shall designate by ordinance, and to any person who has made timely request for the same. The notice shall clearly describe the nature of the request and conditional use.

- (B) The first hearing before the Board of Supervisors shall be commenced within 60 days from the date of receipt of the applicant's application, unless the applicant has agreed in writing to an extension of time. Each subsequent hearing before the Board shall be held within 45 days of the prior hearing, unless otherwise agreed to by the applicant in writing or on the record.

**Section 1105--Decision** (amended July 3, 1997, Ordinance No. 3-97)

- (A) The Township Supervisors shall render a written decision or, when no decision is called for, make written findings on the Conditional Use Application within forty-five (45) days after the last hearing before the Board of Supervisors. Where the application is contested or denied, each decision shall be accompanied by findings of fact or conclusions based thereon, together with any reasons therefore. Conclusions based on any provisions of the Pennsylvania Municipalities Planning Code as amended 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.
- (B) Where the Board of Supervisors fails to render the decision within the period required by this subsection or fails to hold the required hearing within sixty (60) days from the date of the applicant's request for a hearing, the decision shall be deemed to have been rendered in favor of the applicant unless the applicant has agreed in writing or on the record to an extension of time. When a decision has been rendered in favor of the applicant because of the failure of the Board of Supervisors to meet or render a decision as hereinabove provided, the Board of Supervisors 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 required by the public notice requirement of the Pennsylvania Municipalities Planning Code as amended. If the Board of Supervisors shall fail to provide such notice, the applicant may do so.
- (C) 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.

## **ARTICLE XII--ADOPTION AND AMENDMENT**

### **Section 1200--Adoption**

This Zoning Ordinance shall be adopted in compliance with the provisions of Article VI, Section 607 and 608 of Act 247, as amended, known and cited as the "Pennsylvania Municipalities Planning Code".

### **Section 1201--Amendment**

This Zoning Ordinance may be amended from time to time as deemed necessary for the public welfare or convenience, in compliance with the provisions of Article VI, Section 609 and Section 609.1 of Act 247, as amended, known and cited as the "Pennsylvania Municipalities Planning Code".

- (A) Enactment of Any Zoning Ordinance Amendments: (amended June 27, 1989, Ordinance No. 1-89)
  - (1) Hearing Required: Before voting on the enactment of an amendment, the governing body shall hold a public hearing thereon pursuant to public notice.
  - (2) Amendments to the Zoning Map:
    - (a) If any proposed amendment involves a change to the zoning map, notice of the required public hearing shall be conspicuously posted by the municipality at points deemed sufficient along the perimeter of the tract to notify potentially interested citizens. The affected tract or area shall be posted at least one week prior to the date of the hearing.
    - (b) Prior to the adoption of any amendments to the zoning map, the governing body shall refer the proposed amendment with an accompanying ordinance describing the proposed amendment to the county agency and the Planning Commission shall report their recommendations on said proposed amendment within forty-five (45) days. If, however, the planning agencies fail to act within forty-five (45) days, the governing body may proceed without their recommendations.
  - (3) Amendments other than those proposed by Planning Commission: In the case of an amendment other than that prepared by the Planning Commission, the governing body shall submit each such amendment to the Planning Commission and county planning

agency at least thirty (30) days prior to the public hearing on such proposed amendment to provide the Planning Commission and county planning agency an opportunity to submit recommendations.

- (4) Amendments after Public Hearing: If, after any public hearing held upon an amendment, the proposed amendment is changed substantially, or is revised, to include land previously not affected by it, the governing body shall hold another public hearing, pursuant to public notice, before proceeding to vote on the amendment.
  - (5) Procedure after Enactment: Within thirty (30) days after enactment, a copy of the amendment to the zoning ordinance shall be forwarded to the county planning agency.
- (B) Procedure Upon Curative Amendment: A landowner who desires to challenge on substantive grounds the validity of this Ordinance, the Zoning Map attached and made a part hereof, or any provision hereof, which prohibits or restricts the use or development of land in which he has an interest may submit a curative amendment to the Township Supervisors with a written request that his challenge and proposed amendment or amendments be heard and decided in the manner prescribed by Act 247, the "Pennsylvania Municipalities Planning Code" and further defined as follows:
- (1) Procedure for filing of curative amendment:
    - (a) The landowner shall make a written request to the Township Supervisors that it hold a hearing on his challenge. The request shall contain a short statement reasonably informing the Township Supervisors of the matters that are in issue and the grounds for the challenge.
    - (b) Such request may be submitted at any time but if an application for a permit or approval is denied under this Ordinance, the request shall be made not later than thirty (30) days after notification of such denial. In such case, if the landowner elects to make the request to the Township Supervisors, and the request is timely, the time within which he may seek review of the denial of the permit or approval on other issues shall not begin to run until the request is finally disposed of.
    - (c) The request shall be accompanied by plans and other materials describing the use or development proposed by

the landowner. Such plans and other material may be general in nature, but should provide a sufficient base for evaluating the challenge.

(2) Public Hearings:

- (a) Upon petition the Township Supervisors shall hold a hearing thereon within sixty (60) days of the filing of the request.
- (b) At least forty-five (45) days prior to the hearing, the Township Supervisors shall refer the proposed amendment to the Township Planning Commission and the Erie County Department of Planning for recommendations.
- (c) The public notices of the hearing in addition to the requirements for advertisement for any amendment indicate that the validity of this Ordinance or Zoning Map is in question and shall indicate the place and times when a copy of the landowner's request, including all plans submitted and the proposed amendments may be examined by the public.
- (d) The public hearing shall be conducted within the following guidelines:
  - (i) The Chairman or acting chairman of the Township Supervisors presiding shall have the power to administer oaths and issue subpoenas to compel the attendance of witnesses and the production of relevant documents and papers including witnesses and documents requested by the parties.
  - (ii) The parties have the right to be represented by counsel and shall be afforded the opportunity to respond and present evidence and argument and cross-examine adverse witnesses on all relevant issues.
  - (iii) Formal rules of evidence shall not apply but irrelevant, immaterial or unduly repetitious evidence may be excluded.

- (iv) The Township Supervisors shall keep a stenographic record of the proceedings and a transcript of the proceedings as well as copies of graphic or written material received in evidence shall be made available to any party at cost.
  - (v) The Township Supervisors shall not communicate, directly or indirectly, with any party or his representatives in connection with any issue involved except upon notices and opportunity for all parties to participate; shall not take notice of any communication, reports, staff memoranda, or other materials unless the parties are afforded an opportunity to contest the material so noticed; and shall not inspect the site or its surroundings after the commencement of hearings with any party or his representatives unless all parties are given an opportunity to be present.
- (e) The hearing may be postponed or continued at the request of the landowner or by mutual consent of the parties.
- (3) Procedure for rendering formal action: Upon completion of the hearing a decision and written communication of said decision shall be delivered to all parties within thirty (30) days.
- (a) Approval of the amendment shall be granted by formal affirmative vote at a regular or special meeting of the Township Supervisors or:
    - (i) The Township Supervisors fail to act on the landowner's request within ninety (90) days of the close of the last hearing, unless the time is extended by mutual consent of the landowner and the Township Supervisors.
  - (b) The landowner's request shall be considered denied when:
    - (i) The Township Supervisors notify the landowner that it will not adopt the amendment.
    - (ii) The Township Supervisors adopt another amendment which is unacceptable to the landowner.

- (4) Appeal: Any action taken or decision rendered under this Article may be appealed by any parties aggrieved by said action or decision under the provisions and procedures provided in Act 247, as amended.

### **ARTICLE XIII--VALIDITY**

Should any section or provision of this Ordinance be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of this Ordinance as a whole or any part thereof, and the part of or sections remaining shall remain in effect as though the part or section declared unconstitutional or invalid had never been a part thereof.

### **ARTICLE XIV--INTERPRETATION, PURPOSE AND CONFLICT**

The interpretation and application of the provisions of this Ordinance shall be held to be the minimum requirements for the promotion of the health, safety and general welfare of McKean Township. This Ordinance is not intended to interfere with or abrogate or annul other rules, regulations or ordinances of the municipality provided that where this Ordinance imposes a greater restriction upon the use of building or premises or upon the height of a building or requires larger open spaces than are imposed by other such rules, regulations, or ordinances, the provisions of the Ordinance shall prevail.

### **ARTICLE XV--REMEDIES**

In case any building, structure, landscaping or land is, or is proposed to be erected, constructed, reconstructed, altered, converted, maintained or used in violation of this Ordinance, the governing body or, with the approval of the governing body, an officer of the municipality, or any aggrieved owner or tenant of real property who shows that his property or person will be substantially affected by the alleged violation, in addition to other remedies, may institute any appropriate action or proceeding to prevent, restrain, correct or abate such building, structure, landscaping or land, or to prevent, in or about such premises, any act, conduct, business or use constituting a violation. When any such action is instituted by a landowner or tenant, notice of that action shall be served upon the municipality at least thirty (30) days prior to the time the action is begun by serving a copy of the complaint on the governing body. No such action may be maintained until such notice has been given. (amended June 27, 1989, Ordinance No. 1-89)

### **ARTICLE XVI--ENFORCEMENT PENALTIES**

Any person, partnership or corporation who or which has violated or permitted the violation of the provisions of this Ordinance shall, upon being found liable therefor in a civil enforcement proceeding commenced by McKean Township, pay a judgment of not more than five hundred dollars (\$500) plus all court costs, including reasonable attorney fees incurred by McKean Township as a result thereof. No judgment shall commence or be imposed, levied or payable until the date of the determination of a violation by the district justice. If the defendant neither pays nor timely appeals the judgment, McKean Township may enforce the judgment pursuant to the applicable rules of civil procedure. Each day that a violation continues shall constitute a separate violation, unless the district justice determining that there has been a violation further determines that there was a good faith basis for the person, partnership or corporation violating the ordinance to have believed that there was no such violation, in which event there shall be deemed to have been only one violation until the fifth day following the date of the determination of a violation by the district justice and thereafter each that a violation



**EXHIBIT "A"**  
**DISTRICTS AND PERMITTED USES, CONDITIONAL USES, AND**

**USES BY SPECIAL EXCEPTION**

**A-1     Conservation District**

The purpose of this district is to conserve areas of McKean Township while permitting development which will have a minimal impact on district lands.

Permitted Uses

1.     Agriculture (Sections 201 and 615)
2.     Single-family Detached Dwelling (Sections 201 and 606)
3.     Public Parks and Playgrounds
4.     Hunting Preserves and Game Lands
5.     Camp (amended April 5, 2007, Ordinance No. 3-07) (Section 201)
6.     Stable and Riding Academies
7.     Accessory Uses (Section 201)(added August 11, 1987, Ordinance No. 3-87)
8.     Manufactured Home (Section 201 and 607) (amended July 7, 2005, Ordinance No. 3-05)
9.     Municipal Buildings (added July 3, 1997, Ordinance No. 3-97)
10.    Fire Stations (added July 3, 1997, Ordinance No. 3-97)
11.    Essential Services (added July 3, 1997, Ordinance No. 3-97) (Section 201)
12.    Communications antennas mounted on an existing public utility transmission tower, building or other structure, including existing communications towers and communications equipment buildings as set forth at Section 629 (added April 2, 1998, Ordinance No. 1-98)
13.    No-Impact Home-Based Business (added May 15, 2003, Ordinance No. 1-03) (Section 201)
14.    Modular Home (Sections 201 and 607) (added July 7, 2005, Ordinance No. 3-05) (Section 201)
15.    Semi-Trailer Storage Unit (Sections 201 and 634) (added June 1, 2006, Ordinance No. 3-06)
16.    Campground (added April 5, 2007, Ordinance No. 3-07) (Sections 201 and 635)
17.    Outdoor Recreation Use (added December 5, 2013, Ordinance No. 5-13)

Conditional Uses (ARTICLE XI)

1.     Home Occupations (Sections 201 and 612)
2.     Manufactured Home (Sections 201 and 607) (amended July 7, 2005, Ordinance No. 3-05)
3.     Airports
4.     Country Clubs and Lodges
5.     Fire Stations
6.     Public and Parochial Schools and Colleges (Section 606)
7.     Golf Course (added December 5, 2013, Ordinance No. 5-13)
8.     Radio or TV Sending or Boosting Stations (Section 605)
9.     Nurseries and Greenhouses
10.    Sawmills
11.    Mineral Excavations (Section 610)
12.    Bed and Breakfast Homestead or Inn (added June 6, 1996, Ordinance No. 1-96) (Section 201)
13.    Group Care and Family Care Facilities (Sections 201 and 619) (added May 1, 2008, Ord. No. 2-08)
14.    Small Wind Energy System (Section 639) (added April 7, 2011, Ordinance No. 1-11)

Special Exceptions (ARTICLE X) (added August 12, 1986, Ordinance No. 1-86)

1.     Water Well Drilling Business (Section 624)
2.     Business Related Water Recreation and Storage (Section 614)
3.     Cemeteries
4.     Specialized Animal Raising and Caring (Section 201)
5.     Injection Wells
6.     Churches (added July 3, 1997, Ordinance No. 3-97) (Section 201)
7.     Ski Facilities (added July 3, 1997, Ordinance No. 3-97)
8.     Public Utility Buildings (added July 3, 1997, Ordinance No. 3-97)
9.     Group Child Day Care Home (added July 3, 1997, Ordinance No. 3-97)
10.    Family Child Day Care Home (added July 3, 1997, Ordinance No. 3-97)
11.    Wind Energy Conversion System (Section 638) (added April 7, 2011, Ordinance No. 1-11)
12.    Commercial Industrial Wind Energy System (Section 639) (added April 7, 2011, Ordinance No. 1-11)

**EXHIBIT "A"**  
(Continued)

**R-1     Rural Residential District**

The purpose of this district is to provide for and maintain the low density residential needs of McKean Township. This district will consist of single-family and residential structures and includes associated public, institutional and recreational uses.

Permitted Uses

1. Single-family Detached Dwelling (Sections 201 and 606)
2. Public Grounds (Section 201)
3. Essential Services (Section 201)
4. Accessory Uses (Section 201)
5. Agriculture (Sections 201 and 615)
6. Communications antennas mounted on an existing public utility transmission tower, building or other structure, including existing communications towers and communications equipment buildings as set forth at Section 629 (added April 2, 1998, Ordinance No. 1-98)
7. No-Impact Home-Based Business (added May 15, 2003, Ordinance No. 1-03) (Section 201)
8. Modular Home (Sections 201 and 607) (added July 7, 2005, Ordinance No. 3-05)
9. Semi-Trailer Storage Unit (Sections 201 and 634) (added June 1, 2006, Ordinance No. 3-06)
10. Municipal Building

Conditional Uses (ARTICLE XI)

1. Mineral Excavation (Section 610)
2. Home Occupation (Sections 201 and 612)
3. Water Recreation and Storage (Section 614)
4. Bed and Breakfast Homestead or Inn (added June 6, 1996, Ordinance No. 1-96) (Section 201)
5. Manufactured Home (Sections 201 and 607) (added July 7, 2005, Ordinance No. 3-05)
6. Group Care and Family Care Facilities (Sections 201 and 619) (added May 1, 2008, Ord. No. 2-08)
7. Small Wind Energy System (Section 639) (added April 7, 2011, Ordinance No. 1-11)
8. Outdoor Recreation Use (added December 5, 2013, Ordinance No. 5-13)
9. Golf Course (added December 5, 2013, Ordinance No. 5-13)

Special Exceptions (ARTICLE X)

1. Family Child Day Care Home (added July 3, 1997, Ordinance No. 3-97)
2. Churches (added July 3, 1997, Ordinance No. 3-97) (Section 201)
3. Group Child Day Care Home (added July 3, 1997, Ordinance No. 3-97)

**EXHIBIT "A"**  
(Continued)

**R-2     Suburban Residential District**

The purpose of this district is to provide for and maintain the medium density residential needs of McKean Township. This district will consist of medium density single-family residential and two-family residential structures of duplexes, 2-unit flats and single-family conversions and multi-family residential structures whether transient use or permanent use oriented and includes associated public, institutional and recreational uses.

Permitted Uses

1. Single-family Detached Dwelling (Sections 201 and 606)
2. Two-family Dwelling (Sections 201 and 606)
3. Public Grounds (Section 201)
4. Essential Services (Section 201)
5. Accessory Uses (Section 201)
6. Agriculture (Sections 201 and 615)
7. Communications antennas mounted on an existing public utility transmission tower, building or other structure, including existing communications towers and communications equipment buildings as set forth at Section 629 (added April 2, 1998, Ordinance No. 1-98)
8. No-Impact Home-Based Business (added May 15, 2003, Ordinance No. 1-03) (Section 201)
9. Modular Home (Sections 201 and 607) (added July 7, 2005, Ordinance No. 3-05)
10. Semi-Trailer Storage Unit (Sections 201 and 634) (added June 1, 2006, Ordinance No. 3-06)

Conditional Uses (ARTICLE XI)

1. Manufactured Home Park (Sections 201 and 608) (amended July 7, 2005, Ordinance No. 3-05)
2. Mineral Excavation (Section 610)
3. Home Occupation (Sections 201 and 612)
4. Water Recreation and Storage (Section 614)
5. Multiple-Family Dwelling (Sections 201 and 606)
6. Boarding, Rooming or Tourist House (Sections 201 and 606)
7. Outdoor Recreation Use (added December 5, 2013, Ordinance No. 5-13)
8. Planned Residential Development (Section 201 and Article VII)
9. Bed and Breakfast Homestead or Inn (added June 6, 1996, Ordinance No. 1-96) (Section 201)
10. Manufactured Home (Sections 201 and 607) (added July 7, 2005, Ordinance No. 3-05)
11. Small Wind Energy System (Section 639) (added April 7, 2011, Ordinance No. 1-11)
12. Golf Course (added December 5, 2013, Ordinance No. 5-13)

Special Exceptions (ARTICLE X)

1. Family Child Day Care Home (added July 3, 1997, Ordinance No. 3-97)
2. Churches (added July 3, 1997, Ordinance No. 3-97) (Section 201)

## EXHIBIT "A"

(Continued)

### **B-1 Highway/Plaza Commercial District**

The purpose of this district is to provide for and maintain the highway commercial and plaza commercial needs of McKean Township. This district will contain only commercial establishments and associated public and institutional uses.

#### Permitted Uses

1. Retail/Wholesale Establishment (Section 606)
2. Eating Establishments (Section 606)
3. Personal Services Establishment (Section 201)
4. Professional Office (Sections 201 and 606)
5. Hotel/motel (Sections 201 and 606)
6. Boarding, Rooming or Tourist Home (Sections 201 and 606)
7. Indoor Commercial Recreation Use (Sections 201 and 606)
8. Public Grounds (Section 201)
9. Church (Sections 201 and 606)
10. Club (Sections 201 and 606)
11. Clinic/hospital (Section 606)
12. Automobile Sales, Service and/or Repair (Sections 201 and 621)
13. Essential Services (Section 201)
14. Accessory Uses (Section 201)
15. Auction House (added June 6, 1996, Ordinance No. 1-96)
16. Child Day Care Center (added July 3, 1997, Ordinance No. 3-97)
17. Funeral Homes (added July 3, 1997, Ordinance No. 3-97)
18. Taverns (added July 3, 1997, Ordinance No. 3-97)
19. Communications antennas mounted on an existing public utility transmission tower, building or other structure, including existing communications towers and communications equipment buildings as set forth at Section 629 (added April 2, 1998, Ordinance No. 1-98)
20. Campground (added July 7, 2005, Ordinance No. 3-05)
21. Semi-Trailer Storage Unit (Sections 201 and 634) (added June 1, 2006, Ordinance No. 3-06)
22. Self-Storage Facility (added April 5, 2007, Ordinance No. 3-07)

#### Conditional Uses (ARTICLE XI)

1. Drive-In Theaters (Sections 606 and 616)
2. Mineral Excavations (Section 610)
3. Agriculture (Sections 201 and 615)
4. Family Child Day Care Home (added July 3, 1997, Ordinance No. 3-97)
5. Group Child Day Care Home (added July 3, 1997, Ordinance No. 3-97)
6. Small Wind Energy System (Section 639) (added April 7, 2011, Ordinance No. 1-11)

#### Special Exceptions (ARTICLE X)

1. Communications towers subject to the regulations governing communications towers and communications equipment buildings as set forth at Section 630 (added April 2, 1998, Ordinance No. 1-98)
2. General Contracting Operations as set forth in Section 631 (added December 3, 1998, Ordinance No. 4-98)
3. Wind Energy Conversion System (Section 638) (added April 7, 2011, Ordinance No. 1-11)
4. Commercial Industrial Wind Energy System (Section 639) (added April 7, 2011, Ordinance No. 1-11)
5. Outdoor Commercial Recreation Use (added December 5, 2013, Ordinance No. 5-13)
6. Specialized Animal Raising and Caring (Section 201) (added December 3, 2015, Ordinance 4-15)

**EXHIBIT "A"**  
(Continued)

**I-1     Industrial District**

The purpose of this district is to provide for and maintain the light manufacturing needs of McKean Township. This district will contain only industrial establishments, heavy commercial activities and facilities for manufacturing, processing, packaging, storage and warehousing which shall conform to the performance standards of this Ordinance (Section 623).

Permitted Uses

1. Light Manufacturing Facility and Related Office (Sections 201 and 606)
2. Warehouse/Storage Building (Section 606)
3. Warehouse/Wholesale Establishment (Section 606)
4. Research and Testing Laboratory (Section 606)
5. Truck Terminal (Section 201)
6. Automobile Sales, Service and/or Repair (Sections 201 and 621)
7. Essential Services (Section 201)
8. Accessory Uses (Section 201)
9. All Permitted Uses in the B-1 District (added May 24, 1985, Ordinance No. 1-85)
10. Auction House (added June 6, 1996, Ordinance No. 1-96)
11. Communications antennas mounted on an existing public utility transmission tower, building or other structure, including existing communications towers and communications equipment buildings as set forth at Section 629 (added April 2, 1998, Ordinance No. 1-98)
12. General Contracting Operations (added December 3, 1998, Ordinance No. 4-98) (Section 201)
13. Semi-Trailer Storage Unit (Sections 201 and 634) (added June 1, 2006, Ordinance No. 3-06)

Conditional Uses (ARTICLE XI)

1. Mineral Excavation (Section 610)
2. Junkyard (Sections 201 and 613)
3. Agriculture (Sections 201 and 615)
4. Heavy Commercial and Heavy Industrial Uses Not Specifically Provided Elsewhere
5. Sanitary Landfills (Sections 201 and 601)
6. Heliport (added March 2, 1995, Ordinance No. 1-95) (Section 201)
7. Small Wind Energy System (Section 639) (added April 7, 2011, Ordinance No. 1-11)

Special Exceptions (ARTICLE X)

1. Recycling Centers (Section 625 and 201) (added June 27, 1989, Ordinance No. 1-89)
2. Transfer Stations (Section 626 and 201) (added June 27, 1989, Ordinance No. 1-89)
3. Communications towers subject to the regulations governing communications towers and communications equipment buildings as set forth at Section 630 (added April 2, 1998, Ordinance No. 1-98)
4. Adult Entertainment Uses (added February 1, 2001, Ordinance No. 1-01) (Section 201)
5. Wind Energy Conversion System (Section 638) (added April 7, 2011, Ordinance No. 1-11)
6. Commercial Industrial Wind Energy System (Section 639) (added April 7, 2011, Ordinance No. 1-11)
7. Outdoor Commercial Recreation Use (added December 5, 2013, Ordinance No. 5-13)

**EXHIBIT "A"**  
(Continued)

**FP      Flood Plain District (ARTICLE VIII)**

The purpose of this district is to provide for protection of life and property in the recognized flood hazard and conservation areas. The FP District is an overlap district. The basic regulations within the FP District are those of the R-1, R-2, and I-1 Districts which it traverses. The district will contain open land uses which shall conform to the additional flood plain regulations of this Ordinance.

Permitted Uses

1. Public Grounds (Section 201)
2. Outdoor Commercial Recreation Activities (Section 201)
3. Residential Yards and Accessory Uses
4. Essential Services (Section (201)
5. Accessory Uses (Section 201)

Conditional Uses (ARTICLE XI)

1. Mineral Excavation (Section 610)
2. Water Recreation and Storage
3. Agriculture (Sections 201 and 615)
4. Drive-In Theater

## EXHIBIT “B” LOT REQUIREMENTS

Zoning Districts (6)	Minimum Lot Area (Sq.Ft.)(1)(11)	Minimum Area Per Family (Sq.Ft.)(1)(2)	Minimum Lot Width (Feet)(8)	Minimum Front Yard (Feet)(4)(7)(10)	Minimum Side Yard (Feet)(4)(7)(10)	Minimum Rear Yard (Feet)(4)(7)(10)	Maximum Building Height (Ft.)	Maximum Lot Coverage (Percent)(9)
<b>A-1</b>	<b><u>Conservation District</u></b>							
Single-Family Dwelling	15,000	15,000	80	30(3)	15	50	35	20
All Other Uses	15,000		80	30(3)	15	50	35	20
<b>R-1</b>	<b><u>Rural Residential District</u></b>							
Single Family Dwelling	15,000	15,000	80	30(3)	15	50	35	20
All Other Uses	15,000		80	30(3)	15	50	35	20
<b>R-2</b>	<b><u>Suburban Residential District</u></b>							
Single-Family Dwelling	12,000	12,000	70	30(3)	10	45	35	25
Two-Family Dwelling	18,000	9,000	90	30(3)	15	55	35	30
Multiple-Family Dwelling	21,000	7,000	100	30(3)	15	60	40	35
Manufactured Home Park	5 acres	6,000	50	20	10	20	20	40
All Other Uses	12,000		70	30(3)	10	45	35	40
<b>B-1</b>	<b><u>High/Plaza Commercial District</u></b>							
All Uses	10,000		60	30	10(5)	30(5)	40	40
<b>I-1</b>	<b><u>Industrial District</u></b>							
All Uses	1 acre (except where greater requirements are noted herein)		150	50	20(5)	30(5)	50	50

- (1) All figures include both public sewer and water facilities. For lots with one public utility of sewer or water and lots with neither of these two utilities, see Exhibit “C”.
- (2) Minimum lot area per each family dwelling unit exclusive of road rights-of-way.
- (3) In a built-up residential area where front yard (setback) lines are already established, the minimum front yard need not be greater than the average of those located for a distance of 200 feet on both sides of the lot or lots for which a zoning certificate is being requested.
- (4) Front, side and rear yard requirements are established from the road right-of-way and/or adjacent property line. The side yard set back requirements fronting a cul-de-sac will be calculated from the midpoint of the structure along the average length of both sides of the structure. (amended December 1, 1994, Ordinance No. 4-94) If a lot does not meet the minimum lot width requirement at the otherwise established front yard set back line, then the front yard set back line for such lot shall be established from the imaginary line where the minimum lot width requirement is met. (added June 6, 1996, Ordinance No. 1-96)
- (5) There are no minimum side and rear yard requirements for those portions of the lot not bordering an A-1, R-1, or R-2 District. (amended June 6, 1996, Ordinance No. 1-96)
- (6) The FP Flood Plain District is an overlap district, therefore, the lot and yard requirements of the R-1, R-2, and I-1 Districts that it traverses applies in the FP District.
- (7) Accessory uses in all districts may be placed one-half the distance of those required for each side yard and a minimum of five (5) feet rear yard. (amended June 6, 1996, Ordinance No. 1-96)
- (8) Minimum lot width requirements are established at the dedicated public road right-of-way or the mean horizontal distance between the side lot lines measured at its widest and narrowest points. Minimum lot width requirements abutting a cul-de-sac are determined from the minimum front yard set back line. No lot shall be less than fifty (50) feet at its narrowest point. (added December 1, 1994, Ordinance No. 4-94)
- (9) Maximum lot coverage is the percentage of land covered by buildings. (added April 2, 1998, Ordinance No. 1-98)
- (10) There are no minimum front yard, side yard or rear yard requirements for any of the following municipally owned facilities: (1) sanitary sewer collection and conveyance facilities; (2) wastewater treatment facilities; and (3) water supply, distribution and treatment facilities. (added May 28, 2002, Ordinance No. 3-02)
- (11) There shall be no minimum lot area requirement for any of the following municipally owned facilities: (1) sanitary sewer collection and conveyance facilities; (2) wastewater treatment facilities; and (3) water supply, distribution and treatment facilities. (added July 3, 2002, Ordinance No. 4-02)

**EXHIBIT "C"**  
**LOT REQUIREMENTS FOR LESS THAN TWO PUBLIC UTILITIES**

<u>Zoning District and Uses</u>	<u>Minimum Lot Area (in acres or square feet)</u>		<u>Minimum Lot Area Per Family (in acres or square feet)</u>	
	<u>Sewer or Water</u>	<u>Neither</u>	<u>Sewer or Water</u>	<u>Neither</u>
A-1 <u>Conservation District</u> (amended June 4, 1992, Ordinance No. 3-92)				
Single-Family	1 Acre*	2 Acres*	1 Acre*	2 Acres*
R-1 <u>Rural Residential District</u> (amended June 4, 1992, Ordinance No. 3-92)				
Single-Family	20,000*	1 Acre*	20,000*	1 Acre*
All Other Uses	20,000*	1 Acre*	20,000*	1 Acre*
R-2 <u>Suburban Residential District</u>				
Single-Family	14,000	17,000	14,000	17,000
Two-Family	20,000	24,000	10,000	12,000
Multiple-Family	24,000	30,000	8,000	10,000
Manufactured				
Home Park	7.5 Acres	10 Acres	8,000	10,000
All Other Uses	14,000	17,000	14,000	17,000
B-1 <u>Highway/Plaza Commercial District</u>				
All Uses	12,000	15,000		
I-1 <u>Industrial District</u>				
All Uses	1.5 Acres	2 Acres		

\*A minimum lot area of 17,000 square feet shall be required for any lot or parcel of record existing prior to June 4, 1992, and which is served either by public sewer or by public water. A minimum lot area of 20,000 square feet shall be required for any lot or parcel of record existing prior to June 4, 1992, and which is served neither by public sewer nor by public water. If any lot of record existing prior to June 4, 1992 having a minimum lot area of 20,000 square feet is thereafter combined with another parcel to create a new lot of record which is served neither by public sewer nor by public water, but the new lot of record does not have the minimum area required to be considered a conforming sized lot, then the new lot of record shall nevertheless remain a lawful non-conforming sized lot. (amended December 1, 1994, Ordinance No. 4-94); (amended July 3, 1997, Ordinance No. 3-97)

There shall be no minimum lot area requirement for any of the following municipally owned facilities: (1) sanitary sewer collection and conveyance facilities; (2) wastewater treatment facilities; and (3) water supply, distribution and treatment facilities. (added July 3, 2002 Ordinance No. 4-02)