



# **Franklin Township Zoning Ordinance**

**January 2010**

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## Franklin Township Zoning Ordinance Article 1 – General Provisions

**101 Title:** The official title of this Ordinance is the “Franklin Township Zoning Ordinance, Erie County, Pennsylvania.”

**102 Effective Date:** This Ordinance shall become effective ten (10) days after final passage by the Board of Supervisors.

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

**103.2 Other Regulations:** Whenever the provisions of this Ordinance are at variance with provisions in other parts of this Ordinance, or with any other lawfully adopted rules, regulations, or ordinances, the more restrictive requirements shall govern.

**104 Severability:** The provisions of this Ordinance shall be severable, and, if any of its provisions shall be unconstitutional, the decision so holding shall not be construed to affect the validity of any of the remaining provisions of this Ordinance. It is hereby declared as the legislative intent that this Ordinance would have been adopted had such unconstitutional provisions not been included therein.

**105 Repeal:** All ordinances or part thereof conflicting herewith be and the same are hereby repealed. Specifically repealed is Ordinance 2 of 1981 and all amendments thereto.

**106 Authority:** This Ordinance is adopted pursuant to the powers granted to the Township by Article VI and Section 601 of the Pennsylvania Municipalities Planning Code.

**107 Purpose and Provisions:** The purpose and provisions of this Ordinance are those as set forth by Sections 603, 603.1, and 604 of the Pennsylvania Municipalities Planning Code.

**108 Statement of Community Development Objectives:** To implement the Edinboro Borough, Franklin Township, and Washington Township Multi-Municipal Comprehensive Plan.

- a. To preserve the essential character of Township
- b. Control growth through zoning
- c. Protect and enhance our streams and watersheds
- d. Improve our rural transportation system
- e. To provide for many and varied recreational and open space activities
- f. To promote a rural lifestyle of larger lot sizes, and on-lot disposal
- g. To provide for industrial and business development in targeted areas
- h. To protect agricultural uses
- i. To provide for adequate fire and emergency services
- j. To preserve groundwater resources for potable water uses
- k. To promote solid waste removal and maximize recycling

## Article 2 District Regulations

**201 Zoning Map:** A map entitled “Official Zoning Map, Franklin Township, Erie County, Pennsylvania” is hereby adopted as part of this Ordinance. The Zoning Map shall be kept on file, available for examination at the Township Office. Copies of the Zoning Map, together with the Zoning Ordinance, shall be made available to the general public by the Township at a reasonable fee to be determined by the Board of Supervisors.

**202 Zoning Districts:** The Township is divided into the districts stated in this Ordinance as shown by the district boundaries on the Official Zoning Map.

- A-1 Agriculture District
- A-2 Conservation District
- R-1 Low-Density Residential District
- R-2 Medium-Density Residential District
- B-1 General Business District
- SP-1 Special Overlay--Billboards
- I-1 Industrial District

### 203 District Purposes and Use Schedules

**203.1 A-1 Agricultural District:** This district is intended to preserve and foster agricultural development within Franklin Township while providing space for low-density residential development. Developmental standards in this district are intended to minimize any potential conflicts between residential and agricultural uses. The primary uses in this district are farming, single-family dwellings, and compatible uses.

#### A-1 Agriculture District

Permitted Uses	Conditional Uses
Single-Family Dwellings	Airports, Ultralight Airports, Heliports (206.38)
Agriculture	Country Clubs (206.19)
Greenhouses and Nurseries	Self-Storage Facilities (206.18)
Water Recreation and Storage (308)	Driving Ranges (206.19)
Churches	Emergency Services Stations (206.35)
No-Impact Home-Based Businesses	Golf Courses (206.19)
Parks and Playgrounds	Mobile Home Parks (206.29)
Specialized Animal Raising and Care	Mineral Excavation (206.11)
Forestry (205A.3)	Cemeteries (206.28)
Accessory Uses and Structures	Outdoor Commercial Recreation (206.19)
Essential Services	Veterinarian Offices (206.34)
Family Day Care Homes (206.21)	Agricultural Related Businesses (206.25)
	Bed and Breakfast (206.13)
	Hunting Preserves and Shooting Ranges (206.37)
	Public Utility Substations/Facilities (206.10)
	Telecommunications Towers (206.20A)
	Gas Wells (206.26)
	Saw Mills (206.36)
	Gas Transmission Lines (206.27)
	Wind Farms (206.39)
	Recreational Vehicle Parks and Campgrounds & High-Impact Outdoor Commercial Recreation (206.47)

**203.2 A-2 Conservation District:** The purpose of this district is to place restrictions upon development in areas where natural phenomena pose a greater than average risk of bringing about damage to property or loss of life, areas which possess significant natural beauty, and areas with inherent natural development restraints. This district shall consist of open space and certain agricultural and recreational uses. This district is an overlay zone, consisting of all land in excess of a twenty-four percent (24%) slope and all identified floodplain areas, as set forth by the most recent Flood Hazard Map.

**A-2 Conservation District (Flood Plain Zone)\***

<b>Permitted Uses</b>	<b>Conditional Uses</b>
Agriculture	Gas Wells (206.26)
Fish Hatchery	Front, Side, and/or Rear Yards of Property Located in Adjacent Districts (206.46)
Hunting Preserves (206.37)	
Golf Courses	
Outlet Installation for Sewage Treatment Plants	
Sealed Public Water Supply Wells	
Utility Transmission Lines	
Water Recreation and Storage	
Forestry (205A.3)	
<b>*See Article 8</b>	

**203.3 R-1 Low-Density District:** The purpose of this district is to provide for and maintain the low-density residential requirements of Franklin Township. This district shall contain agricultural uses, single-family dwellings, and includes associated public, institutional, and recreational uses.

**R-1 Low-Density Residential District**

Permitted Uses	Conditional Uses
Single-Family Dwellings	Bed and Breakfast Inns(206.13)
Agriculture	Cemeteries (206.28)
Churches	Emergency Services Stations (206.35)
Municipal Buildings and Libraries	Gas Wells (206.26)
Parks and Playgrounds	Public Utility ,Substations/Facilities (206.10)
Schools (206.12)	Group Day Care Homes (206.21)
Family Day Care Homes (206.21)	
Accessory Uses and Structures	
Essential Services	
No-Impact Home-Based Business	
Forestry (205.A.3)	
Water Recreation and Storage (308)	

**203.4 R-2 Medium-Density Residential District:** The purpose of this district is to provide for and maintain the medium-density residential requirements of Franklin Township. This district shall permit agricultural uses, single-family dwellings, two-family dwellings, multiple-family dwellings, and other uses set forth hereafter.

**R-2 Medium-Density Residential District**

Permitted Uses	Conditional Uses
Agriculture	Private Clubs (206.22)
Churches	Multiple-Family Dwellings (206.41)
Single-Family Dwellings	Gas Wells (206.26)
Two-Family Dwellings	Emergency Services Stations (206.35)
Parks and Playgrounds	Adult Day Care (206.16)
Schools (206.12)	Group Day Care Homes (206.21)
Forestry (205.A.3)	Public Utility Substation/Facilities (206.10)
No-Impact Home-Based Business	Personal Care Homes (206.16)
Accessory Uses and Structures	Rooming/Boarding Homes (206.15)
Essential Services	Bed and Breakfast Inns (206.13)
Family Day Care Homes (206.21)	
Water Recreation and Storage (308)	

**203.5 B-1 General Business District:** The purpose of this district is to provide for and maintain suitable areas which will satisfy the commercial requirements and potential of Franklin Township. By compacting the B-1 districts, they will receive better public safety protection and a better possibility that utilities may be provided. The General Business District shall include commercial, office, and limited residential uses. Most industrial uses are excluded in order to reduce the hazards caused by extensive truck movements normally associated with such uses; however, certain light industrial uses are permitted if they meet the specific requirements of this Ordinance.

**B-1 General Business District**

Permitted Uses	Conditional Uses
Agriculture	Veterinarian Offices (206.34)
Social and Fraternal Clubs	Apartments (206.42)
Eating and Drinking Establishments (Restaurants) (206.22) (All Types)	Auto/Truck Sales and Service <b>(206.30)</b>
Entertainment Facilities	Bed and Breakfast (206.13)
Funeral Homes (206.14)	Convenience Stores (206.23)
Hospitals and Clinics for Humans (206.12)	Supply Yards (206.43)
Motels (206.24)	Public Utility Substations/Facilities (206.10)
Offices (All Types)	Car Wash (206.17)
Retail Businesses	Nursing Homes (206.12)
Forestry (205.A.3)	Gas Wells (206.26)
Accessory Uses and Structures	Emergency Services Stations (206.35)
Indoor Commercial Recreation	Single-Family Dwellings
Water Recreation and Storage (308)	Self-Storage Facilities (206.18)
Personal Services	
Essential Services	
Day Care Centers (206.21)	

**203.6 I-1 Industrial District:** The purpose of the Industrial District is to provide suitable space for existing industries and their expansion, as well as future industrial development. Performance standards, loading and parking specifications, and yard regulations are set forth in the Ordinance in order to insure, insofar as possible, safe, non-objectionable industrial installation.

**I-1 Industrial District**

Permitted Uses	Conditional Uses
Agriculture	Industrial Parks (206.33)
Light Manufacturing	Heavy Manufacturing (206.32)
Offices	Emergency Services Stations (206.35)
Truck Terminals	Mineral Excavation (206.11)
Warehousing/Wholesale Businesses	Gas Wells (206.26)
Rental Services	Sanitary Landfills (206.40)
Contractor Yards	Junk Yards (206.31)
Forestry (205.A.3)	Telecommunications Towers (206.20A)
Accessory Uses and Structures	Power Generating Stations (206.44)
Essential Services	Public Utility Substations/Facilities (206.10)
Water Recreation and Storage	Self-Storage Facilities (206.18)
Telecommunications Antenna (206.20)	Wind Farms (206.39)
	Sexually Oriented Business (206.45)

**SP-1Note:** This is a special overlay district to accommodate billboards in the Township. It is 75 feet wide, parallel to I-79 and begins six hundred sixty (660) feet from the Federal right-of-way line on either side of Interstate Route I-79. Billboards shall not be restricted to the SP-1 area when erected in I-1 zones contiguous to I-79.

## 204 Lot and Yard Requirements

### Franklin Township Lot and Yard Requirements

Zoning District Use	Minimum Lot Area <sup>1</sup> (Sq. Ft.)	Minimum Lot Frontage <sup>2</sup> (Ft.)	Minimum Lot Width <sup>3</sup> (Mean Ft.)	Minimum Front Depth <sup>4</sup> (Mean Ft.)	Minimum Side Yard <sup>4</sup> (Ft.)	Minimum Rear Yard (Ft.)	Maximum Lot Coverage <sup>5</sup> (Percent)	Maximum Height <sup>8</sup> (Ft.)
<b>A-1 Agricultural</b>								
Single-Family Dwelling	87,120	50	250	50	30	50	10	35
Accessory Buildings/Ponds	87,120	50	250	50	30 <sup>6</sup>	50 <sup>7</sup>	5	35
All Other Uses	87,120	50	400	50	30	50	10	35
<b>A-2 Conservation</b>								
All Uses	87,120	50	400	50	30	50	0	35
<b>R-1 Low-Density Residential</b>								
Single-Family Dwelling	43,560	50	120	50	15	50	20	35
Accessory Buildings/Ponds	43,560	50	120	50	10	25	10	35
All Other Uses	43,560	50	120	50	15	50	10	45
Single-Family Dwelling <sup>a</sup>	20,000	50	90	50	15	50	30	35
Accessory Buildings/Ponds <sup>a</sup>	20,000	50	90	50	10	25	20	35
All Other Uses	20,000	50	90	50	15	50	20	35
<b>R-2 Medium-Density Residential</b>								
Single-Family Dwelling	20,000	50	100	50	15	30	20	35
Two-Family Dwelling	30,000	50	150	50	20	30	20	45
Accessory Buildings/Ponds	20,000	50	100	50	10	15	10	45
All Other Uses	20,000	50	100	50	15	30	10	45
Single-Family Dwelling <sup>a</sup>	10,000	50	75	50	15	20	30	35
Two-Family Dwelling <sup>a</sup>	12,500	50	100	50	20	20	30	45
Accessory Buildings/Ponds <sup>a</sup>	10,000	50	75	50	10	10	20	45
All Other Uses <sup>a</sup>	10,000	50	75	50	15	20	20	45
<b>B-1 General Business</b>								
All Uses	12,500	100	90	50	10 <sup>6</sup>	10 <sup>6</sup>	40	35
<b>I-1 Light Industrial</b>								
All Uses	25,000	150	130	75	50	50	60	45
Notes:								
<sup>a</sup> Served by a central sewage disposal system owned or operated by the municipality.								
<sup>b</sup> If adjacent to a district that requires greater distances, the greater distances shall be required.								
<sup>1</sup> Gross lot area								
<sup>2</sup> Frontage distance along a public right-of-way. When creating a public or private right-of-way, the centerline must be no closer than 75 feet from any existing or proposed structure.								
<sup>3</sup> Mean shall be calculated by dividing the gross square footage of the lot by the distance from the front property line to the rear property line at the point perpendicular to the road that results in the greatest distance—exclude the distance on that portion of the lot used for a right-of-way to a public road. In A-1, if a flag lot is used, the minimum shall be 200 feet on the lot fronting on the public right-of-way.								
<sup>4</sup> On a flag lot, the minimum side yard required on the pole side shall be the same as the minimum front yard requirement plus 25 feet. Minimum front depth is measured back from road right-of-way line. See Definitions, Section 901.								
<sup>5</sup> Total of all buildings allowed in the category plus twice the percentage for ponds. Ponds with dry fire hydrants installed may be larger at the Supervisors' discretion with conditional use permit.								
<sup>6</sup> Side lot requirements may be reduced to 15 feet with approval of a conditional use by the Supervisors.								
<sup>7</sup> Rear lot requirements may be reduced to 25 feet with approval of a conditional use by the Supervisors.								
<sup>8</sup> See Sections 206.20 and 206.20A for height limits on telecommunication antenna and towers.								
Special Note: All lots using on-lot septic systems must be approved by the Erie County Department of Health.								

**205 Permitted Uses, Conditional Use, and Special Exceptions:** The permitted uses, conditional uses, and special exceptions for each district are shown in Section 203 and are considered principal uses unless clearly noted. Uses in each category shall be according to the common meaning of the term or according to definitions set forth in Article 7. Only one (1) principal use per lot in the R-1 and R-2 Districts will be allowed. Uses that are not listed for a district are not permitted.

Conditional uses are to be granted or denied by the Board of Supervisors after the recommendation of the Planning Commission and in accordance with the provisions of this Ordinance. Special exceptions are to be granted or denied by the Zoning Hearing Board in accordance with the express standards and criteria of this Ordinance. In granting a conditional use or special exception, the Board of Supervisors or the Zoning Hearing Board, as the case may be, may attach reasonable conditions and safeguards as it may deem necessary to implement the purpose of this Ordinance and protect the neighborhood. Permitted uses will be approved or denied by the Zoning Officer according to the provisions of this Ordinance.

*Please Note: Some permitted uses may have additional conditions with the section number shown in parenthesis. Not all permitted uses have additional conditions. These uses will be treated as permitted uses, any conditions literally interpreted and approved or denied by the Zoning Officer. However, the Zoning Officer does not have the power to attach any conditions.*

*Overlay Zone: A zoning district that encompasses one or more underlying zones and that imposes additional requirements beyond those required for the underlying zone. For this Ordinance, the A-2 and SP-1 zones are overlay zones.*

**205A Special Provisions:** This section is intended to comply with the requirements of Section 603(C) of the Pennsylvania Municipalities Planning Code:

1. **Prime Agricultural Land:** The Township is a rural place and is not fully developed. There are active farms currently within its borders. Provision to promote agriculture is found in the A-1 and A-2 Districts. Persons locating homes within the A-1 District are reminded that agricultural activities are protected by various “Right to Farm” laws of the Commonwealth.
2. **Historic Preservation:** The Township supports the concept of historic preservation and will entertain proposals to create Historic Districts under Act 167 of 1961.
3. **Forestry:** The practice of forestry, including timber harvesting, is declared as a permitted use in all districts. It is subject to the following conditions:
  - a. Any harvesting shall present an approved erosion and sediment control plan prior to the issuance of a logging permit.
  - b. In the R-1 and R-2 Districts, to avoid traffic congestion and sound disturbance, all activities must start after 7:00 a.m. and end by 8:00 p.m. during the week. No Sunday work shall be permitted.

**206 Special Criteria for Permitted Uses with Conditions, Conditional Uses, and Special Exceptions:** The criteria for permitted uses with conditions, conditional uses, and special exceptions are listed below

**206.10 Public Utility Substations/Facilities:** Such uses are permitted, with condition, to allow public utilities to adequately service the Township. They shall include small structures and aboveground facilities, such as vent pipes. However, they are not to be used for offices or garages.

- a. Shall be landscaped to present a minimum intrusion upon the neighborhood.
- b. May be enclosed by a security fence of no more than eight (8) feet, notwithstanding any other section of this Ordinance.
- c. No outdoor storage shall be permitted of equipment or vehicles.
- d. Such uses shall be exempt from lot and yard requirements, except the front yard setback.

**206.11 Mineral Excavation:** This section is intended to apply to all mining, quarrying, and mineral excavation activities, except oil and gas wells.

- a. The applicant will provide the Township with copies of all needed permits from the Pennsylvania Department of Environmental Protection (DEP). If such permits are in process, the Township shall not issue a permit until approved DEP permits are received.
- b. Any applicant using Township roads for their activity must file a plan with the Township, describing the number and type of trucks to be used, along with their weight, loaded and unloaded. The applicant will be required to post bonding consistent with the applicable provisions of Ordinance 4-96 as amended or reenacted.
- c. The hours of operation shall be limited from 7:00 a.m. to 7:00 p.m., prevailing time.

**206.12 Schools, Hospitals, and Nursing Homes:**

- a. Shall provide all parking and loading/unloading requirements as required by this Ordinance.
- b. Shall be located on a State road with a paved cartway.
- c. All parking and recreation/play areas, which abut residential uses, shall be screened.
- d. Any outdoor lighting shall use fully shielded fixtures.
- f. All necessary licenses or permits issued by county, state, or federal agencies shall be presented and these required licenses, certificates, or permits shall be a condition for final approval.

**206.13 Bed and Breakfast Inns:** Such uses are intended to provide overnight or short-term [not more than two (2) weeks] accommodations for transient guests in a home-like atmosphere. They must meet the following regulations:

- a. All signs shall conform to this Ordinance.
- b. No more than five (5) guest rooms will be permitted.
- c. One (1) off-street parking space for each guest room shall be required. Parking shall be on-lot.

- d. The only meal served shall be breakfast and that shall only be provided to guests.
- e. The facility shall comply with state law regarding such facilities.
- f. They shall be owner-occupied.

**206.14 Funeral Homes:** Funeral homes shall meet the following criteria:

- a. For the conversion of an existing structure with approved on-lot water and sewer services, a lot size of at least sixty thousand (60,000) square feet shall be required.
- b. At least twenty (20), paved, on-lot parking spaces shall be provided with an additional five (5) spaces for each additional viewing parlor after the first two (2).
- c. The driveway system shall be arranged so the hearse and funeral cortege formation will be completed on the lot and not on a public road.
- d. Facilities shall be on paved, State roads.

**206.15 Rooming/Boarding Homes:**

- a. Must meet all health and safety code requirements. They specifically shall demonstrate sufficient capacity for water and sewer systems.
- b. May not house more than four (4) roomers/boarders.
- c. Shall not adversely affect the character of the surrounding neighborhood.
- d. Shall provide off-street parking per Section 307.
- e. They shall be owner-occupied and operated.

**206.16 Personal Care Boarding Homes for Adults and Adult Day Care:** The purpose of such homes is to provide residences for individuals in a home-like setting. Consequently, it is essential to maintain an exterior appearance that is in harmony with surrounding residences. In addition, such uses shall meet the following conditions:

- a. Signs or exterior display indicating the name of the home or its use shall not exceed that allowed by this Ordinance.
- b. At least one (1) additional on-lot parking space shall be provided for each two (2) guests for facilities offering overnight or long-term accommodations.
- c. No home shall have more than six (6) guests/clients at any one time.
- d. The applicant shall identify the type of home, and present any required state certifications or licenses, especially those required by the Pennsylvania Department of Welfare.
- e. The facility shall present evidence that it has sufficient potable water and sanitary sewer capacity, considering both staff and clients. (*Note: For on-lot sewers, contact the Erie County Department of Health.*)

- f. The facility shall demonstrate compliance with applicable standards of the Uniform Construction Code.

**206.17 Car Washes:** Car washes are subject to the following express standards and criteria:

- a. All drainage water from car washing operations shall be contained on site, so as to not become a nuisance or hazard to adjoining properties, berms, or roadways.
- b. All property lines adjoining residential use or zoning classification shall be screened by a buffer area as defined by this Ordinance which is at least twenty (20) feet in depth measured from the property line.
- c. Outdoor areas for parking and queuing shall be covered with an impervious surface, off the public right-of-way, and shall be maintained free of debris and obstruction.
- d. See also Section 307.

**206.18 Self-Storage Facilities:** These uses shall:

- a. Provide screening of twenty (20) feet along rear and side yards.
- b. Any lighting shall be fully shielded and directed away from adjacent uses.
- c. Any fencing along boundaries with an adjacent property shall be set back at least six (6) feet from required screening.

**206.19 Golf Courses, Country Clubs, Driving Ranges, and Outdoor Commercial Recreation** are subject to the following express standards and criteria:

- a. All facilities shall have a minimum site of two (2) acres.
- b. Golf clubhouses, offices, and publicly used structures shall be located at least one hundred (100) feet from any property line adjoining a residential use or district and at least fifty (50) feet from all other property lines.
- c. Structures which are located within three hundred (300) feet of a residential use or zoning classification shall be screened by a buffer area which is at least thirty (30) feet in depth measured from the property line.
- d. Where eating and/or drinking facilities are provided, parking requirements for restaurants shall apply in addition to the parking requirements for the primary use.
- e. Operations shall be discontinued between the hours of 2:00 a.m. and 6:00 a.m.
- f. All lighting will use fully shielded fixtures.

*Note: See also High-Impact Outdoor Commercial Recreation (206.47).*

**206.20 Telecommunications Antennas** for use in commercial, business or governmental service:

- a. If applicable, the applicant shall demonstrate that it is licensed by the Federal Communications Commission to operate a communications tower and/or communication antennas. If not applicable, the Township may require evidence of any exemption.

- b. Building mounted communications antennas shall not be located on any single-family dwelling or two-family dwelling.
- c. Building-mounted communications antennas shall be permitted to exceed the height limitations of the applicable zoning district by no more than twenty (20) feet.
- d. Omni-directional or whip communications antennas shall not exceed twenty (20) feet in height and seven (7) inches in diameter.
- e. Directional or panel communications antennas shall not exceed five (5) feet in height and three (3) feet in width.
- f. Any applicant proposing communications antennas to be mounted on a building or other structure shall submit documentation from a Pennsylvania-registered professional engineer certifying that the proposed installation will not exceed the structural capacity of the building or other structure, considering wind and other loads associated with the antenna location.
- g. Any applicant proposing communications antennas mounted on a building or other structure shall submit detailed construction and elevation drawings indicating how the antenna will be mounted on the structure to be reviewed for compliance with the Township.

**206.20A Telecommunications Towers** for use in commercial, business or governmental service: Such towers are a conditional use.

- a. Compliance with other Regulations:
  - (1) If applicable, the applicant shall demonstrate that it is licensed by the Federal Communications Commission to operate a communications tower and communication antennas. If not applicable, the Township may require evidence of any exemption.
  - (2) All applicable standards established by the Federal Communications Commission governing human exposure to electromagnetic radiation shall be met.
  - (3) All applicable Federal Aviation Administration, Commonwealth Bureau of Aviation and applicable airport zoning regulations shall be met.
- b. Dimensional Requirements:
  - (1) Towers shall be no taller than necessary to perform their intended function. The maximum height of any communications tower shall be no more than three hundred (300) feet unless preempted by airport zoning.
  - (2) Communications towers 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 it is located within, but the minimum area devoted to the communications tower shall be at least two (2) acres.
- c. Yard and Setback Requirements:

- (1) The minimum dimension between the tower base and any abutting property line shall be at least the height of the tower plus ten (10) feet.
  - (2) No two (2) towers, existing or proposed, shall be within three thousand (3,000) feet of one another unless two (2) or more towers are placed on the same parcel or lot. In that event the development shall demonstrate that both towers and any needed guy wires are separated by a distance equal to tower height plus ten (10) feet to insure site safety.
  - (3) No tower shall be located within five hundred (500) feet of a residential use with an occupied residential dwelling.
  - (4) All support guy wire anchors and accessory buildings shall be located within the site.
  - (5) Any communications equipment building shall comply with the required yards and height requirements of applicable zoning district for an accessory structure.
- d. **Shared Use of a Tower:** Before a new tower site can be approved, the developer shall demonstrate that there is no feasible existing elevated location within three thousand (3,000) feet of the proposed site, capable of supporting his/her equipment at the required height. Existing structures such as steeples, silos or water tanks may be used, as well as existing towers in lieu of a new tower. The developer shall provide letters from the owners of the elevated locations stating that they have refused the developer the use of their site or sites with reasons why the site or sites is unreasonable or unfeasible for the developer's needs, if such reason involves:
- (1) The proposed antennas and related equipment would exceed the structural capacity of the existing structure and its reinforcement cannot be accomplished at a reasonable cost.
  - (2) The proposed antennas and related equipment would cause radio frequency interference with other existing equipment for that existing structure and the interference cannot be prevented at a reasonable cost.
  - (3) Such existing structures do not have adequate location, space, access or height to accommodate the proposed equipment or to allow it to perform its intended function.
  - (4) Addition of the proposed antennas and related equipment would result in electromagnetic radiation from such structure exceeding applicable standards established by the Federal Communications Commission governing human exposure to electromagnetic radiation.
- E. **Fencing, Access, Landscaping, Lighting, and Other Standards:** Pole towers will be preferred over lattice towers. A pole tower shall be considered one which is of monopod configuration without support from guy wires.

A security fence at least eight (8) feet high shall surround the entire area around the base of the tower, any accessory buildings and guy anchors on the ground.

Access to the site, if it does not abut a public road, shall be over an easement at least twenty (20) feet wide between a public road and site and shall be improved with a dust-free, all-weather surface to a width of at least ten (10) feet for its entire length.

Existing trees on the site shall not be removed except within the fenced area or for the access easement. An evergreen screen at least six (6) feet high shall be planted at the base of the tower and accessory buildings to screen them from the view of nearby residences.

The tower and site shall be lighted as required by the Federal Aviation Administration. The site shall be minimally lighted with fully shielded fixtures. Towers over 75 feet shall have one light at the top that will sufficiently warn low-flying aircraft such as medical transport helicopters.

- f. **Tower Design and Maintenance:** The tower installation shall be designed by a registered Pennsylvania professional engineer, who shall supervise the construction at no cost to the Township, shall certify that the structure has been 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. The structure must be capable of carrying at least twice the anticipated initial load, with a safety factor of two (2), and of withstanding wind and ice loads in accordance with accepted engineering practices.

The developer shall provide a schedule for regular inspection and maintenance of the tower and site, and shall be responsible to mow the entire site that is not in woods or in agricultural or other active use.

- g. **Submission Requirements:** If a tower site is to be leased, a subdivision or land development plan shall be required to show the leased site, described by bearings and distances, within the property from which the site will be leased or sold.

Evidence of a lease agreement must be presented.

A site development plan, drawn to scale, shall also be prepared to show precisely the location of the tower on the site, fencing, support buildings on the ground, guy anchors, tower and ground lighting and access easement.

The subdivision plan shall be reviewed and if approved, recorded.

Once finalized, the applicant shall submit the name, address and emergency telephone number for the operator of the communications tower for the use of Emergency Management personnel.

The applicant shall submit a Certificate of Insurance evidencing general liability coverage in the minimum amount of \$1 million per occurrence and property damage coverage in the minimum amount of \$1 million per occurrence covering the communications tower and communications antennas.

- h. **Ultimate Disposition:** The developer, or current owner, shall be responsible for the removal of the tower and the returning of the site to its original condition within one (1) calendar year after if the tower is abandoned or the equipment is no longer operational. Landscaping installed during development of the site may remain in place. Each tower

owner shall inform the Township of any changes in ownership or responsibility for a tower immediately after the change occurs.

**206.21 Day Care Facilities, All Types:** The purpose of this section is to set forth standards for the three types of day care covered by this Ordinance (see Definition section also). In addition to the specific standards set below, the applicant shall demonstrate the proposed facility has adequate potable water and sanitary sewer facilities for the resident staff and clients. The capacity for on-lot systems shall be approved by the Erie County Department of Health. In addition, all requirements of the Uniform Construction Code must be met, and proof of compliance presented.

a. Family Child Day Care Homes

- (1) Such operations shall obtain any permit/certificates required by the state.
- (2) Hours of operation shall not begin before 6:00 a.m. nor extend beyond 9:00 p.m. (prevailing time).

b. Group Child Day Care Homes

- (1) Such operations shall obtain any permits/certificates as required by the State of Pennsylvania (Department of Welfare).
- (2) Hours of operation shall not begin before 6:00 a.m. nor extend beyond 10:00 p.m. (prevailing time).
- (3) Outdoor play areas shall be effectively screened from nearby residential uses through fencing or screening.
- (4) At least one (1) additional parking place shall be required (see also 317).
- (5) The operator shall demonstrate how children shall be dropped off and picked up considering their safety and the safety of other pedestrian and vehicular traffic in the area.

c. Child Day Care Center

- (1) Any outdoor play area shall be effectively screened from abutting properties.
- (2) For all new construction, and where feasible for existing structures, circular driveways shall be provided to deliver and pick up children off public roads. These facilities are intended for the safety of the children and the protection of the neighborhood. In any event, the developer shall demonstrate how pick up and delivery shall occur in a safe manner.
- (3) One (1) parking space for each employee shall be required.
- (4) Such facilities must be licensed by the Pennsylvania Department of Public Welfare.

**206.22 Eating and Drinking Places, Private Clubs:**

- a. Shall present evidence that water and sanitary sewer facilities have been approved by the Erie County Department of Health or the Pennsylvania Department of Environmental Protection agency and are adequately sized.
- b. Shall present proof that development(s) have been approved by the Pennsylvania Department of Labor and Industry.
- c. Shall have a lot of at least two (2) acres.
- d. Shall provide screening for rear and side yards.
- e. All parking shall be on lot.
- f. All lighting fixtures shall be fully shielded and directed away from neighboring properties.
- g. No outdoor speakers shall be allowed.

**206.23 Convenience Store:**

- a. Any fuel pumps shall be at least thirty (30) feet from the front lot line (right-of-way line) and thirty (30) feet from each side lot line.
- b. No vehicle shall be parked or stored along the front lot line except on a short-term basis [less than four (4) hours].
- c. Any lot line abutting a residential use or district shall provide appropriate screening. Such screening shall be at least twenty (20) feet wide.
- d. Canopy structures shielding gasoline pumps shall be no closer than twenty (20) feet from the front lot line or may follow the average setback of the structures adjacent on each side and twenty (20) feet from each side lot line.

**206.24 Motels:** Such uses shall:

- a. Present proof that all plans for the construction/development of the facilities have been approved by the Pennsylvania Department of Labor and Industry.
- b. Are constructed in accordance with the Pennsylvania Uniform Construction Code.
- c. Have a lot of at least four (4) acres.
- d. All rear and side property lines shall be screened as defined by this Ordinance. Property lines which abut a residential district or use shall provide a twenty- (20) foot buffer area.
- e. Present evidence that water and sanitary sewer facilities have been approved by the Erie County Department of Health and/or DEP, and are adequately sized.
- f. All parking on lot and meet the minimum number of spaces of this Ordinance.

**206.25 Agricultural Related Businesses:** Are subject to the following express standards and criteria:

- a. The use shall be subject to the Performance Standards section of this Ordinance.
- b. All structures used for feed storage and distribution shall be located at least two hundred (200) feet from an existing residence on adjacent property.
- c. All property lines adjoining residential uses or zoning classifications shall be screened by a buffer area as defined by this Ordinance which is at least twenty (20) feet in depth, measured from the property line.
- d. All lots shall be at least five (5) acres in size.

**206.26 Gas Wells:** Gas wells in built-up areas present an intrusive use and are a potential attractive nuisance. In consequence, the following regulations are hereby set forth:

- a. The well operator shall present to the Zoning Officer a copy of an approved gas well permit from the Pennsylvania Department of Environmental Protection. Said permit must be available at the public hearing.
- b. The well operator shall present a map clearly showing the location of the proposed gas well.
- c. The well operator shall inform the Township, by letter, at least twenty-four (24) hours before the initiation of drilling activities.
- d. The well operator shall provide security twenty-four (24) hours a day during the drilling process to protect against injury or death to persons who may wander on, or be around, the well site.
- e. The well operator shall annually file with the Township a report on the status of the well, active or inactive.
- f. If the well is plugged, a copy of the needed permit or authorization from the Pennsylvania Department of Environmental Protection shall be delivered to the Zoning Officer.
- g. The name of a twenty-four (24) hour emergency contact for the well operator will be filed with the Franklin Township Volunteer Fire Department and the contact information shall be kept current.
- h. Further requirements regarding drilling, access and hauling are found in other Township ordinances (see especially 2-1984 and others, as amended or reenacted) and State laws, and such requirements shall be met and needed sureties posted before any permits to commence drilling are issued.

**206.27 Gas Transmission Lines:**

- a. The line operator shall file copies of all needed permits with the Zoning Officer.
- b. The line operator shall file a construction plan as well as copies of any “as-built” drawings with the Township and the Franklin Township Volunteer Fire Department and kept current.
- c. The name and telephone of a twenty-four (24) hour emergency contact of the line operator will be filed with the Franklin Township Volunteer Fire Department.

- d. The line operator will provide the Township with twenty-four (24) hour written notice prior to the initiation of any construction activities and prior to the initiation of the use of the line.
- e. A performance bond, in an amount set from time to time by the Supervisors, shall be required to ensure compliance with this section.

**206.28 Cemeteries:** In the future cemeteries are subject to the following standards and criteria, current cemeteries are exempt from this section:

- a. A minimum site of five (5) acres shall be required.
- b. A drainage plan shall be submitted with the application for approval to show existing and proposed runoff characteristics.
- c. Ingress, egress, and internal circulation shall be designed to ensure safety and minimize impact on local roads.
- d. All property lines adjoining residential uses shall be screened as defined by this Ordinance.
- e. Provisions for perpetual care shall be required that are satisfactory to the Township.

**206.29 Mobile Home Parks:**

- a. Shall fully comply with the Township subdivision and land development ordinance.
- b. Shall front upon a public paved road.

**206.30 Gasoline Service Stations, Auto and Truck Sales and Service:** These uses are subject to the following express standards and criteria as appropriate:

- a. Hydraulic hoists, pits and all lubrication, greasing, automobile washing and repair equipment shall be entirely enclosed within a building.
- b. Gasoline pumps shall be located no closer than thirty (30) feet to any property line.
- c. No building, stand, oil rack, or other apparatus, other than that which is necessary for quick service to an automobile, shall be located within thirty (30) feet of any right-of-way or property line.
- d. Canopies over gasoline pumps shall not be located closer than twenty (20) feet to any property line or road right-of-way line.
- e. There shall be no storage of any wrecked or dismantled vehicle outside a building for longer than one (1) week.
- f. In addition to parking spaces required by Article 3 of this Ordinance, adequate vehicle maneuvering areas shall be provided outside the building, which shall have an all-weather surface.

- g. All property lines adjoining residential uses or zoning classifications shall be screened by a buffer area as defined by this Ordinance, which is at least ten (10) feet in depth measured from the property line.
- h. All such facilities shall be on a paved, State road.

**206.31 Scrap (Junk or Salvage) Yards:** Scrap yards shall comply with the following requirements:

- a. All lots shall be at least five (5) acres in size and located at least two hundred and fifty (250) feet from any other zoning district.
- b. There shall be no storage of scrap, machinery, or equipment of any kind in the front yard area or in areas visible from the surrounding properties.
- c. The processing or storage of hazardous materials, as the same are defined by the Department of Environmental Protection, shall not be permitted, except as needed to remove vehicular fluids, batteries, and similar incidental material.
- d. The facility shall provide a fence around the premises at least eight (8) feet in height, constructed to block the line of sight and the fence shall be constructed at the yard setback lines. All fences shall be kept in good repair.
- e. All such uses must obtain an annual license from the Township.

**206.32 Heavy Manufacturing:** Heavy manufacturing shall meet the following performance standards:

- a. All needed permits from Federal or State environmental agencies shall be identified and presented.
- b. **Noise:** The sound pressure level of any industry abutting upon a residential or commercial district shall not exceed the decibel limits in the octave bands designated in the following table:

Octave Frequency (Cycles Per Second)	Decibel Limits Along or in Residential District Boundaries	Decibel Limits Along or in Businesses or Industrial District Boundaries
0-75	72	79
75-150	67	74
150-300	59	66
300-600	52	59
600-1200	46	53
1200-2400	40	47
2400-4800	34	41
Over 4800	32	39

Sounds of short duration, as from forge hammers, punch presses, and metal shears, which cannot be measured accurately with the sound-level meter, shall be measured with the impact filter as manufactured by the General Radio Company or its equivalent in order to determine the peak value of the impact. For sounds so measured, the sound pressure level set forth in this table may be increased by six (6) decibels.

- c. **Vibration:** No vibration shall be generated which can be detected by a person at the I-1 Industrial District boundary.
- d. **Glare:** Lighting or such activities as welding shall be shielded from any other district. Outside lighting shall use full shielded fixtures.

**206.33 Industrial Parks:**

- a. **Minimum Lot Area and Lot Widths:**
  - (1) An industrial park development shall be required to contain a minimum of twenty (20) acres of land area.
  - (2) All buildings or structures permitted in the Industrial Park shall be located on a lot having a minimum area of two (2) acres and a minimum frontage on a public or private road of two hundred (200) feet.
- b. **Yards Required:**
  - (1) Front Yards: There shall be a front yard of not less than fifty (50) feet measured from the road right-of-way line.
  - (2) Side Yards: There shall be two (2) side yards, each having a width of not less than twenty-five (25) feet.
  - (3) Rear Yards: There shall be a rear yard of not less than fifty (50) feet.
  - (4) Setbacks: Setbacks from other districts shall be at least fifty (50) feet.
- c. **Building Height Limits, Lot Coverage, and Parking:**
  - (1) No building or structure shall exceed a height of fifty (50) feet.
  - (2) Percentage of Lot Coverage: Not more than thirty percent (30%) of the lot area shall be covered by any main and accessory uses, except that water supply ponds for firefighting shall not be included in the coverage calculation. No more than eighty percent (80%) of the lot may be covered by impervious surfaces.
  - (3) Off-Street Parking: Space for off-street parking of employees, customers, and visitors shall be as required in this Ordinance.
- d. **Signs:** All on-premises signage shall be in accordance with the standards set forth in the Franklin Township regulations (see Section 313).
- e. **Roads:** All streets in any industrial park must be public or public right-of-way, private roads and shall meet the standards for industrial roads as specified by the Franklin Township Subdivision and Land Development Ordinance.
- f. **Landscaping:** Areas of properties not occupied by buildings or paved shall be landscaped and maintained in accordance with the park site plan. At least one (1) tree or shrub shall be planted for each two hundred (200) square feet of property area not covered by buildings or paved. Of the total required planting, at least twenty percent (20%) shall be deciduous trees not less than two-inch (2") caliper when planted. Trees

shall be planted not less than thirty (30) feet apart and not less than twenty (20) feet from any building.

- g. **Water and Sanitary Sewer and Stormwater Facilities:** Water and sewer services shall be approved by the Erie County Department of Health and/or DEP, as appropriate. Stormwater facilities shall be required and shall comply with appropriate Township, County or State requirements.

**206.34 Commercial Kennels, Veterinarian Office, Stables, or Riding Academy:**

- a. The property of a kennel or veterinarian office shall be at least five (5) acres in area; a stable or riding academy shall be at least ten (10) acres in area. Veterinarian offices shall be on paved, State roads.
- b. Outdoor areas to be occupied by animals shall be as remote as possible from neighboring residences. Buildings on the site, landscaping, and/or changes of grade may be used to screen adjacent housing areas or potential areas of housing. (See also Section 310.)
- c. All outdoor areas to which animals have access shall be fenced to contain the animals, and such outdoor area shall be not closer than fifty (50) feet from any property line.
- d. Runoff from outdoor areas shall be diverted away from neighboring occupied properties and odors emanating from the operation controlled.
- e. All dogs in a kennel shall be kept in an enclosed building at night.
- f. The operators of these uses must present proof that the facilities and operations meet all applicable State laws.

**206.35 Emergency Services Stations:** These facilities include fire stations, ambulance and emergency vehicle facilities, and police barracks or stations.

- a. All side and rear property lines adjoining residential uses or zoning classifications shall be screened by a buffer area as defined by this Ordinance which is at least twenty (20) feet in depth measured from the property line.
- b. All lights shall be fully shielded and directed away from adjoining property.
- c. The entrance and exit for the facility shall be so designed as to allow adequate sight distances and generally ensure a safe entrance onto public roads.
- d. There shall be adequate space in front of the fire station so trucks and equipment may be backed into their parking bays without using public roads.

**206.36 Sawmills:** Sawmills are subject to the following express standards and criteria:

- a. The use shall be subject to the performance standards of this Ordinance.
- b. All milling operations shall be located at least three hundred (300) feet from any existing dwelling on adjoining property and at least one hundred (100) feet from any property line.

- c. Routes to be used by hauling trucks shall be approved by the Township. If bonding of the road is required by the Township, proof of compliance is required.
- d. Operations shall be discontinued from 7:00 p.m. to 7:00 a.m.; no Sunday operations.

**206.37 Hunting Preserves and Shooting Ranges:**

- a. Maintain a lot of at least one hundred (100)\* acres for commercial hunting operations.
- b. No enclosure for commercial hunting shall be erected within four hundred fifty (450) feet of a neighboring residence, any neighboring agricultural building used to house livestock, a school, day care facility, or playground associated with a school.\*\*
- c. Outdoor commercial shooting ranges and commercial hunting operations shall not undertake activities between the hours of sunset and sunrise. The Board of Supervisors may limit hours of operation for other intensive uses as a reasonable additional condition of approval.
- d. Commercial shooting ranges shall illustrate that the design and direction of all firing lanes shall not present a danger to public health and safety. The developer shall show adherence to best design practices, such as the National Rifle Association’s *NRA Range Source Book* to ensure safety. Other intensive uses shall present a plan to minimize any noise created by activities through buffering, acoustic engineering, or topography.

\*Per game bird farm regulations.

\*\*Pennsylvania safety zone is 150 yards.

**206.38 Airports:** All classes of airports, ultralight airports, and heliports shall be allowed as a conditional use in the A-1 District. However, the Township may need to adopt specific airport zoning regulations. The developer shall:

- a. Provide the Township with all the technical data required by the appropriate airport zoning regulations as set forth by the Bureau of Aviation, Pennsylvania Department of Transportation.
- b. Be responsible for all reasonable fees and costs incidental to preparing and adopting airport zoning provisions as an amendment to this Ordinance.
- c. Assist in any enforcement proceedings, including the cost of prosecution.
- d. Ultralight airports are intended for private use only. This use must comply with the following criteria:
  - (1) All such airports must be at least three hundred (300) feet from any property line and at least five hundred (500) feet from any dwelling.
  - (2) The operator shall present evidence that the facility complies with appropriate State regulations and has secured a license from the Pennsylvania Department of Transportation, Bureau of Aviation.
- e. Heliports are subject to the following express standards and criteria:

- (1) Heliports shall be permitted only when accessory to public safety facilities' operations or industrial parks.
- (2) Heliports shall be located at least one hundred (100) feet from any property line or public street.
- (3) Evidence of compliance with all applicable regulations of the Federal Aviation Administration and the Pennsylvania Department of Transportation shall be submitted.
- (4) The helicopter landing pad shall be clearly marked with the insignia commonly recognized to indicate same.
- (5) Lighting shall be fully shielded away from adjacent properties.

**206.39 Wind Farms:** This section of the Zoning Ordinance shall be known as the Wind Energy Facility Regulations for Franklin Township. The purpose of this section is to provide for the construction and operation of wind energy facilities in Franklin Township, subject to reasonable conditions that will protect the public health, safety, and welfare.

**Definitions:**

- a. "Applicant" is the person or entity filing an application under this section.
- b. "Facility Owner" means the entity or entities having an equity interest in the wind energy facility, including their respective successors and assigns.
- c. "Operator" means the entity responsible for the day-to-day operation and maintenance of the wind energy facility.
- d. "Hub Height" means the distance measured from the surface of the tower foundation to the height of the wind turbine hub, to which the blade is attached.
- e. "Occupied Building" means a residence, school, hospital, church, public library or other building used for public gathering that is occupied or in use when the permit application is submitted.
- f. "Turbine Height" means the distance measured from the surface of the tower foundation to the highest point of the turbine rotor plane.
- g. "Wind Turbine" means a wind energy conversion system that converts wind energy into electricity through the use of a wind turbine generator, and includes the nacelle, rotor, tower, and pad transformer, if any.
- h. "Wind Energy Facility" means an electric generating facility, whose main purpose is to supply electricity, consisting of one or more wind turbines and other accessory structures and buildings, including substations, meteorological towers, electrical infrastructure, transmission lines, and other appurtenant structures and facilities.
- i. "Non-Participating Landowner" means any landowner except those on whose property all or a portion of a wind energy facility is located pursuant to an agreement with the facility owner or operator.

**Applicability:**

- a. This section applies to all wind energy facilities proposed to be constructed after the effective date of the Ordinance, except that this section is not intended to apply to stand-alone wind turbines constructed primarily for residential or farm use.
- b. Wind energy facilities constructed prior to the effective date of this Ordinance shall not be required to meet the requirements of this Ordinance, provided that any physical modification to an existing wind energy facility that materially alters the size, type, and number of wind turbines or other equipment shall require a permit under this Ordinance.

**Permit Requirements:**

- a. No wind energy facility, or addition of a wind turbine to an existing wind energy facility, shall be constructed or located within Franklin Township unless a permit has been issued to the facility owner or operator approving construction of the facility under this Ordinance.
- b. The permit application or amended permit application shall be accompanied with a fee in the amount as set by the Township Supervisors. Developers shall be responsible for all expenses of the Township in the evaluation and approval of a permit.
- c. Any physical modification to an existing and permitted wind energy facility that materially alters the size, type, and number of wind turbines or other equipment shall require a permit modification under this Ordinance. Like-kind replacements shall not require a permit modification.

**Permit Application:**

- a. The permit application shall demonstrate that the proposed wind energy facility will comply with this section.
- b. Among other things, the application shall contain the following:
  - (1) A narrative describing the proposed wind energy facility, including an overview of the project; the project location; the approximate generating capacity of the wind energy facility; the approximate number, representative types and height or range of heights of wind turbines to be constructed, including their generating capacity, dimensions and respective manufacturers, and a description of ancillary facilities.
  - (2) An affidavit or similar evidence of agreement between the property owner and the facility owner or operator demonstrating that the facility owner or operator has the permission of the property owner to apply for necessary permits for construction and operation of the wind energy facility.
  - (3) Identification of the properties on which the proposed wind energy facility will be located, and the properties adjacent to where the wind energy facility will be located.
  - (4) A site plan showing the planned location of each wind turbine, property lines, setback lines, access road and turnout locations, substation(s), electrical cabling

from the wind energy facility to the 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.

- (5) Documents related to decommissioning, including bonds or escrow amounts needed for decommissioning.
  - (6) Other relevant studies, reports, certifications and approvals as may be reasonably requested by the Township to ensure compliance with this Ordinance.
- c. Within thirty (30) days after receipt of a permit application, the Township will determine whether the application is complete and advise the applicant accordingly.
  - d. Within sixty (60) days of a completeness determination, the Township will schedule a public hearing. The applicant shall participate in the hearing and be afforded an opportunity to present the project to the public and municipal officials, and answer questions about the project. The public shall be afforded an opportunity to ask questions and provide comment on the proposed project.
  - e. Within one hundred and twenty (120) days of a completeness determination, or within forty-five (45) days after the close of any hearing, whichever is later, the Township will make a decision whether to issue or deny the permit application.
  - f. Throughout the permit process, the applicant shall promptly notify the Township of any changes to the information contained in the permit application.
  - g. Changes to the pending application that do not materially alter the initial site plan may be adopted without a renewed public hearing.

#### **Design and Installation:**

- a. **Design Safety Certification:** The design of the wind energy facility shall conform to applicable industry standards, including those of the American National Standards Institute. The applicant shall submit certificates of design compliance obtained by the equipment manufacturers from Underwriters Laboratories, Det Norske Veritas, Germanischer Lloyd Wind Energies, or other similar certifying organizations.
- b. **Uniform Construction Code:** To the extent applicable, the wind energy facility shall comply with the Pennsylvania Uniform Construction Code, 34 Pa. Code §§403.1-403.142.
- c. **Controls and Brakes:** All wind energy facilities shall be equipped with a redundant braking system. This includes both aerodynamic over-speed controls (including variable pitch, tip, and other similar systems) and mechanical brakes. Mechanical brakes shall be operated in a fail-safe mode. Stall regulation shall not be considered a sufficient braking system for over-speed protection.
- d. **Electrical Components:** All electrical components of the wind energy facility shall conform to relevant and applicable local, state and national codes, and relevant and applicable international standards.

- e. Visual Appearance; Power Lines:
  - (1) Wind turbines shall be a non-obtrusive color such as white, off-white, or gray.
  - (2) Wind energy facilities shall not be artificially lighted, except to the extent required by the Federal Aviation Administration or other applicable authority that regulates air safety.
  - (3) Wind turbines shall not display advertising.
  - (4) On-site transmission and power lines between wind turbines shall, to the maximum extent practicable, be placed underground.
  
- f. Warnings:
  - (1) A clearly visible warning sign concerning voltage must be placed at the base of all pad-mounted transformers and substations.
  - (2) 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 ten (10) feet from the ground.
  - (3) All warning devices, labels, and similar safety devices shall be kept in good repair and legible during the useful life of the facility.
  
- g. Climb Prevention/Locks:
  - (1) Wind turbines shall not be climbable up to fifteen (15) feet above ground surface.
  - (2) All access doors to wind turbines and electrical equipment shall be locked or fenced, as appropriate, to prevent entry by non-authorized persons.

**Setbacks:**

- a. Occupied Buildings:
  - (1) Wind turbines shall be set back from the nearest occupied building a distance not less than the required setback requirements for that zoning classification or 1.1 times the turbine height, whichever is greater. 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.
  - (2) Wind turbines shall be set back from the nearest occupied building located on a Non-participating landowner's property a distance of not less than five (5) times the hub height, as measured from the center of the wind turbine base to the nearest point on the foundation of the occupied building.
  
- b. Property Lines: All wind turbines shall be set back from the nearest property line a distance of not less than the required setback requirements for that zoning classification or 1.1 times the turbine height, whichever is greater. The setback distance shall be measured to the center of the wind turbine base.

- c. **Public Roads:** All wind turbines shall be set back from the nearest public road a distance of not less than 1.1 times the turbine height, as measured from the right-of-way line of the nearest public road to the center of the wind turbine base.

**Waiver of Setbacks:**

- a. Property owners may waive the setback requirements in 9(A)(2) (Occupied Buildings on Non-participating Landowner's Property) and 9(B) (Property Lines) by signing a waiver that sets forth the applicable setback provision(s) and the proposed changes.
- b. The written waiver shall notify the property owner(s) of the setback required by this Ordinance, describe how the proposed wind energy facility is not in compliance, and state that consent is granted for the wind energy facility to not be setback as required by this section.
- c. Any such waiver shall be recorded in the Recorder of Deeds Office for the County where the property is located. The waiver shall describe the properties benefited and burdened, and advise all subsequent purchasers of the burdened property that the waiver of setback shall run with the land and may forever burden the subject property.
- d. Upon application, the Township may waive the setback requirement for public roads for good cause.

**Use of Public Roads:**

- a. The Applicant shall identify all state and local public roads to be used within the Township to transport equipment and parts for construction, operation or maintenance of the wind energy facility.
- b. The Township's engineer or a qualified third party engineer hired by the Township and paid for by the applicant, shall document road conditions prior to construction. The engineer shall document road conditions again thirty (30) days after construction is complete or as weather permits.
- c. The Township may require a bond on the road in compliance with State and Township regulations.
- d. Any road damage caused by the applicant or its contractors shall be promptly repaired at the applicant's expense.
- e. The applicant shall demonstrate that it has appropriate financial assurance to ensure the prompt repair of damaged roads.

**Local Emergency Services:**

- a. The applicant shall provide a copy of the project summary and site plan to local emergency services, including the volunteer fire department(s).
- b. Upon request, the applicant shall cooperate with emergency services to develop and coordinate implementation of an emergency response plan for the wind energy facility.

**Noise and Shadow Flicker:**

- a. Audible sound from a wind energy facility shall not exceed fifty (55) dBA, as measured at the exterior of any occupied building on a non-participating landowner's property. Methods for measuring and reporting acoustic emissions from wind turbines and the wind energy facility shall be equal to or exceed the minimum standards for precision described in AWEA Standard 2.1 - 1989 titled *Procedures for the Measurement and Reporting of Acoustic Emissions from Wind Turbine Generation Systems Volume I: First Tier*.
- b. The facility owner and operator shall make reasonable efforts to minimize shadow flicker to any occupied building on a non-participating landowner's property.

**Waiver of Noise and Shadow Flicker Provisions:**

- a. Property owners may waive the noise and shadow flicker provisions of this Ordinance by signing a waiver of their rights.
- b. The written waiver shall notify the property owner(s) of the sound or flicker limits in this Ordinance, describe the impact on the property owner(s), and state that the consent is granted for the wind energy facility to not comply with the sound or flicker limit in this Ordinance.
- c. Any such waiver shall be recorded in the Recorder of Deeds Office of Erie County. The waiver shall describe the properties benefited and burdened, and advise all subsequent purchasers of the burdened property that the waiver of sound or flicker limit shall run with the land and may forever burden the subject property.

**Signal Interference:** The applicant shall make reasonable efforts to avoid any disruption or loss of radio, telephone, television or similar signals, and shall mitigate any harm caused by the wind energy facility.

**Liability Insurance:** There shall be maintained a current general liability policy covering bodily injury and property damage with limits of at least \$1 million per occurrence and \$1 million in the aggregate. Certificates shall be made available to the Township upon request.

**Decommissioning:**

- a. The facility owner and operator shall, at its expense, complete decommissioning of the wind energy facility, or individual wind turbines, within (12) twelve months after the end of the useful life of the facility or individual wind turbines. The wind energy facility or individual wind turbines will presume to be at the end of its useful life if no electricity is generated for a continuous period of twelve (12) months.
- b. Decommissioning shall include removal of wind turbines, buildings, cabling, electrical components, roads, foundations to a depth of thirty-six (36) inches, and any other associated facilities.
- c. 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.
- d. An independent and certified professional engineer shall be retained to estimate the total cost of decommissioning ("Decommissioning Costs") without regard to salvage value of the equipment, and the cost of decommissioning net salvage value of the equipment ("Net

Decommissioning Costs”). Said estimates shall be submitted to the Township after the first year of operation and every fifth year thereafter.

- e. The facility owner or operator shall post and maintain decommissioning funds in an amount equal to net decommissioning costs, provided, that at no point shall decommissioning funds be less than twenty-five percent (25%) of decommissioning costs. The decommissioning funds shall be posted and maintained with a bonding company or Federal or Commonwealth chartered lending institution chosen by the facility owner or operator and participating landowner posting the financial security, provided that the bonding company or lending institution is authorized to conduct such business within the Commonwealth and is approved by the Township.
- f. 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 the Township.
- g. If the facility owner or operator fails to complete decommissioning within the period prescribed by paragraph 17(A), then the landowner shall have six (6) months to complete decommissioning.
- h. If neither the facility owner or operator, nor the landowner complete decommissioning within the periods prescribed by paragraphs 17(A) and 17(G), then the Township may take such measures as necessary to complete decommissioning, utilizing all or any of the decommissioning funds. The entry into and submission of evidence of a participating landowner agreement to the Township shall constitute agreement and consent of the parties to the agreement, their respective heirs, successors and assigns that the Township may take such action as necessary to implement the decommissioning plan.
- i. The escrow agent shall release the decommissioning funds when the facility owner or operator has demonstrated and the municipality concurs that decommissioning has been satisfactorily completed, or upon written approval of the municipality in order to implement the decommissioning plan.

**Public Inquiries and Complaints:**

- a. The facility owner and operator shall maintain a phone number and identify a responsible person for the public to contact with inquiries and complaints throughout the life of the project.
- b. The facility owner and operator shall make reasonable efforts to respond to the public’s inquiries and complaints.

**Remedies:** See Article 4.

**206.40 Sanitary Landfills:** Such uses shall only be permitted as follows:

- a. They shall have a lot of at least one hundred (100) acres.
- b. They shall be on a paved State highway.
- c. All required permits from DEP shall be presented.

- d. Buffer yards at least one hundred (100) feet in width shall be used around all side and rear yards. A buffer yard of at least seventy-five (75) feet will be used in the front yard area.

**206.41 Multiple-Family Dwellings:** Such uses shall conform to the following standards:

- a. The lot size shall be at least two (2) acres for the first two (2) dwelling units. For each additional dwelling unit, an additional ten thousand (10,000) square feet of lot area shall be required. Example: A 10-unit development shall require:

2 Acres =	87,120 Square Feet
8 Units =	<u>80,000</u> Square Feet
Required Lot =	167,120 Square Feet

- b. Side yards shall be increased by ten (10) feet for developments of ten (10) units or less. For any development over ten (10) units, side yards shall be increased by twenty (20) feet.
- c. Evidence of adequate water and sanitary sewer facilities shall be presented to the Township.
- d. Townhouse development shall contain no structures with more than six (6) units. The arrangement of structures on the lot may be varied but shall maintain an isolation distance of at least twenty-five (25) feet between buildings.
- e. Parking areas shall be paved and all lighting will use fully shielded fixtures.
- f. Lots shall be landscaped.

**206.42 Apartments:** Apartment buildings shall be allowed in the B-1 General Business District, subject to the following conditions:

- a. Lot size shall be at least one (1) acre.
- b. At least ten (10) dwelling units will be developed.
- c. All parking shall be in the rear of the structure, and shall provide screen planting along side and rear lines.
- d. Side yards shall be at least twenty (20) feet.
- e. The developer shall provide evidence of adequate potable water for tenants as well as for fire protection.
- f. All sanitary sewer facilities shall be approved by the Township and the Erie County Department or DEP (as appropriate).

**206.43 Supply Yards:**

- a. All such uses shall have a lot of at least two (2) acres.
- b. All side and rear yards shall be increased by ten (10) feet.

- c. Any side or rear yard which abuts a residential use or district shall provide a twenty (20) foot landscaped screening/planting area.
- d. Any fencing shall be to the inside of required landscaped areas.

**206.44 Power-Generating Stations:** Power stations shall be classified as heavy industry.

- a. The development will require at least a five- (5) acre lot with a minimum of a buffer strip of one hundred (100) feet) along all side and rear property lines.
- b. All such uses shall be on a paved road.
- c. The developer shall present an operation plan. Any development using trucked-in fuel (coal, gas, etc.) shall present a traffic study to determine the impact on the local road system. All such studies shall use professional standards such as set forth by the Institute of Traffic Engineers. They shall also determine the physical impact of such traffic upon the roads within the Township.

**206.45 Sexually Oriented Business:** Such business shall comply with the Township's Lewd Material Ordinance No. 4-94.

**206.46 Front, Side, and/or Rear Yards of Property Located in Adjacent Districts:** Property in the A-2 District can be used to meet yard requirements of abutting properties in other zoning districts subject to the following conditions:

- a. The property meets the requirements for sanitary sewage and, if necessary, has been approved by the Erie County Department of Health.
- b. Any on-lot drinking water source complies with all appropriate regulations and if physically located in the A-2 District, shall comply with all regulations of Article 8.

**206.47 High-Impact Outdoor Commercial Recreation:** These are uses that, due to their nature, are apt to be intrusive in a rural setting. To mitigate these effects, the following standards are set:

- a. All lighting shall be fully shielded fixtures.
- b. A landscaped screening twenty (20) feet in width shall be provided on all side and rear lot lines that abut residential uses or districts. The screening shall provide an effective light screen. Paintball, motocross, and any type of motorized racing facilities will require landscaped screening of seventy-five (75) feet from any area where active paintball or racing activities will take place.
- c. Lot sizes shall be at least five (5) acres for all uses, except paintball, motocross, and any type of motorized racing facilities shall be at least twenty (20) acres in size.
- d. The hours of operation shall be between 8:00 a.m. and 9:00 p.m., prevailing time.
- e. Commercial shooting ranges shall illustrate that the design and direction of all firing lanes shall not present a danger to public health and safety. The developer shall show adherence to best design practices, such as the National Rifle Association's *NRA Range Source Book* to ensure safety.

- f. Paintball, motocross, and similar specialized activities shall file with the Township a bond which will ensure such facilities will be properly decommissioned when they are no longer in use. Such bond will be in an amount satisfactory to the Township to assure a successful decommissioning and shall be renewed annually.
- g. Recreational Vehicle Parks and Campgrounds shall be subject to all the land development provisions of the Subdivision and Land Development Ordinance and such other reasonable conditions required by the Supervisors.

### **Article 3 Supplementary Regulations**

**301 Nonconforming Uses and Structures:** Every structure, use, or lot which does not conform to the regulations of the district in which it is located at the time of adoption of this Ordinance or amendment thereto, shall be considered “nonconforming.” The following provisions shall apply to all nonconforming uses and structures. It is the intention of the Township that all legal nonconforming uses and structures shall be able to continue; however, all changes in such uses shall only be as allowed in this Article.

**301.1:** Any nonconforming use may be continued, but may not be extended or expanded unless to a conforming use, except as permitted by the Zoning Hearing Board in accordance with the provisions of this Ordinance. Any prior conditions or restrictions imposed upon the property by an action of the Zoning Hearing Board or the Board of Supervisors shall remain in effect.

**301.2:** A nonconforming structure, which has been partly or completely destroyed, other than by intent or design, may be rebuilt or repaired within one (1) year. It shall, however, conform to the footprint of the exiting building. It shall then continue to be treated as a legal non conforming structure. (See also 301.4.) Nothing in this Ordinance shall be deemed to prevent the strengthening or restoring to a safe condition of any structure declared unsafe by any public official.

**301.3:** In the event that any nonconforming use voluntarily ceases, for whatever reasons, for a period of one (1) year, such nonconforming use shall not be resumed and any further use shall be in conformity with the provisions of this Ordinance. Once changed to a conforming use, no structure or land shall be permitted to revert to a nonconforming use. The change of crops or livestock common to agriculture practice shall not constitute a change of use.

**301.4:** The nonconforming use 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 nonconforming building or structure may, with the approval of the Zoning Hearing Board, be extended, enlarged or replaced. However, such structures must comply with the area, yard regulations, and height restrictions of the district in which the structure is located, and must meet all off-street parking and loading requirements of this Ordinance. If stormwater management is required under current local or state laws, the extended non-conforming use must comply with same.

**301.5:** 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 required permits have been granted prior to the effective date of this Ordinance.

**301.6:** Whenever the boundaries of a district shall be changed so as to transfer an area from one district to another of a different classification, this Article shall also apply to any uses, which thereby become nonconforming.

**301.7:** Nonconforming signs may be repaired, provided that no structural alterations are made which increase the gross surface area of the sign. Nonconforming signs may not be enlarged or added to; however, the interchange of panels on nonconforming signs shall be permitted.

### **302 Existing Lots of Record:**

**302.1:** Any lot of record existing at the effective date of this Ordinance, and held in separate ownership different from the ownership of adjoining lots, may be used for the erection of a structure conforming to the use regulations of the district in which it is located even though its lot area and width are less than the minimum required by this Ordinance. However, such lot must comply with the yard, height, and coverage standards of the zoning district wherein it is located. Where two (2) or more adjacent lots of record with less than the required area and width are held by one (1) owner, on or before the date of enactment of this Ordinance, the request for a permit shall be referred to the Zoning Hearing Board which may require replatting to fewer lots, which would comply with the minimum requirements of this Ordinance.

**302.2:** No provision of Article 3 of this Zoning Ordinance relating to side and rear yard requirements shall prevent the reasonable use of a lot of record. The Board of Supervisors, after public hearing and notice to adjacent property owners, may grant a reduction in the requirement for side yard and rear yards for non-conforming lots of record which lack required lot width. However, in no event may such yard dimensions be reduced by more than one half that required by Article 2 without the approval of the Zoning Hearing Board.

### **303 Application of Yard Regulations:**

**303.1:** 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 yards.

**303.2:** A wall or fence under eight (8) feet in height and paved terraces without walls, roofs or other enclosures may be erected within the limits of any yard. Fences may be permitted in front yard areas provided they are no higher than four (4) feet and do not impinge on the required free sight triangle at intersections. Exemptions to this restriction include fences for safety purposes, those used for the containment of livestock and fences specifically required in this or other Township ordinances. However in no event shall such fences block public road or driveway lines of sight.

**303.3:** Swimming pools shall be permitted in side or rear yard areas, provided that the pool is located not less than ten (10) feet from lot line. (See also Section 308.)

**303.4:** In all districts, small garden sheds, storage sheds and similar accessory structures of one hundred (100) square feet or less may be permitted in rear yard areas, provided such structure does not lie closer than ten (10) feet to side lot line or within ten (10) feet of the rear property line and does not exceed fifteen (15) feet in height. When an accessory structure is attached to the principal building, it shall comply in all respects with the requirements of this Ordinance applicable to the principal building.

### **304 Temporary Structures:**

**304.1:** Temporary structures 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 six-(6) month periods. These permits may be renewed during periods of active construction. Temporary structures are subject to setback requirements. The use of former mobile homes, former semi-rigs, former buses or like volumetric vehicles for temporary structures is not permitted in any district in the Township.

Temporary structures shall be removed no more than thirty (30) days after construction is complete. Construction completion shall be the date of issue of the occupancy permit.

**304.2 Portable Storage Units:** These units are intended for the temporary storage of household goods during moving or remodeling. Units must be off the public right-of-way and set back at least fifteen (15) feet. The use of former mobile homes, former semi-rigs, former buses or like volumetric vehicles for storage is not permitted in any district in the Township. The units must be under lease from a commercial vendor that regularly supplies portable storage units and the Township shall issue permits for such units on a thirty- (30) day basis with up to one (1) thirty- (30) day renewal. After that time, the units will be regarded as structures. They shall be placed on a permanent foundation, shall meet all yard requirements of this Ordinance and be inspected for conformance with the Uniform Construction Code. If not in conformity with that code, they shall be brought into compliance or such structures will be considered in violation of this Ordinance.

**305 Height Limitations:** When the following conditions are met, height limits may be increased:

**305.1:** Structure height, in excess of the height permitted above the average ground level allowed in any district may be increased, provided all minimum front, side and rear yard depths are increased by one (1) foot for each additional foot of height; however, such increase shall be limited to no more than ten (10)\* additional feet.

\*See also the Township Sign Ordinance.

**305.2:** The following structures are exempt from height regulations provided they do not constitute a hazard: church spires, telecommunications towers or antennas\*, conveyors, flag poles, agricultural barns, silos and similar farm structures, standpipes, elevated water tanks, derricks and similar structures.

\*Covered by separate regulations

**306 Performance Standards:** No use of land or structure in any district shall involve, or cause, any condition or material that may be dangerous, injurious, or toxic to any other property or person. Please note that some agricultural activities are protected by the Commonwealths "Right to Farm" Laws. Every industrial or commercial use of land or structure in any district must observe the following performance requirements.

**306.1 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 material is carried on.

**306.2 Electric Disturbance:** No activity shall cause electrical disturbances adversely affecting radio, television or other communication equipment in the neighboring area.

**306.3 Air Pollution/Smoke:** All air-borne emissions shall comply with the regulations of the Pennsylvania Department of Environmental Protection and the Environmental Protection Agency (US).

**306.4 Glare:** Lighting devices which produce objectionable direct or reflected glare on adjoining properties or thoroughfares shall not be permitted. Fully shielded external lights shall be required.

**306.5 Water Pollution:** No permit shall be issued until all applicable wastewater, stormwater or erosion/sedimentation control permits have been obtained.

**306.6 Vibration:** No vibration shall be permitted which is discernible without instruments on any adjoining lot or property, except that the temporary vibration as a result of construction activity shall be permitted.

**306.7 Noise:** The sound pressure level shall not exceed the decibel limits in the octave bands designated in the following table:

Octave Frequency (Cycles Per Second)	Decibel Limits	
	Along or in Residential District Boundaries	Along or in Businesses or Industrial District Boundaries
0-75	72	79
75-150	67	74
150-300	59	66
300-600	52	59
600-1200	46	53
1200-2400	40	47
2400-4800	34	41
Over 4800	32	39

Sounds of short duration, as from forge hammers, punch presses, and metal shears, which cannot be measured accurately with the sound-level meter, shall be measured with the impact filter as manufactured by the General Radio Company or its equivalent in order to determine the peak value of the impact. For sounds so measured, the sound pressure level set forth in this table may be increased by six (6) decibels.

**307 Off-Street Loading and Parking:** Off-street loading and parking space shall be provided in accordance with the specifications in this section in all districts, whenever any new use is established or an existing one is enlarged.

Use	First Space	Second Space*
<b>Industrial</b>		
Manufacturing	5,000	50,000
Warehouse	10,000	50,000
Storage	10,000	50,000
<b>Commercial</b>		
Wholesale	20,000	50,000
Retail	20,000	40,000
Service Establishment	30,000	60,000
Restaurants	40,000	80,000
Office Building	40,000	100,000
Hotel/Motel	20,000	100,000
<b>Institutional</b>		
Schools	10,000	100,000
Hospitals	50,000	100,000
Nursing Homes	50,000	100,000
<b>Public Buildings</b>		
Auditoriums	30,000	100,000
Arenas	30,000	100,000
*An additional space required for each additional increase at this value. For example, in manufacturing, 5,000 square feet equals 1 space; 50,000 square feet equals 2 spaces; 100,000 square feet equals 3 spaces.		
Note: All figures are given in gross feet of floor area (GFA) for each listed use.		

**307.1(a) Size and Access:** Each off-street loading space shall be not less than fourteen (14) feet in uniform width and sixty (60) feet in length with fifteen (15) feet of vertical clearance. It shall be so designed so the vehicles using loading spaces are not required to back onto a public road or alley. Such spaces shall abut a public road or have an easement of access thereto. Loading spaces shall not be located in the required front yard.

Loading spaces for vehicles over a two- (2) ton capacity shall be located at least thirty (30) feet from any property line adjoining a residential use or zoning classification. All loading spaces located along a property line adjoining a residential use or other zoning classification shall be screened.

**307.1(b) Uses Not Listed:** For any use not listed, the Zoning Officer shall follow the requirement for the most similar use.

**307.2 Off-Street Parking:**

- a. **Size and Access:** For all uses, each parking space shall have a uniform area of one hundred eighty (180) square feet, being at least ten (10) feet wide and eighteen (18) feet long. Parking space areas shall be exclusive of access drives or aisles, and shall be in usable shape and condition. Except in the case of single-family dwellings, no parking area shall contain less than three (3) spaces. Parking areas shall be designed to provide sufficient turnaround area so that vehicles are not required to back onto public roads. Access to off-street parking areas shall be limited to well-defined locations, and in no case shall there be unrestricted access along a road (see Section 307.3, Driveways).
- b. **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. If no similar uses are mentioned, the parking requirements shall be one (1) space for each two (2) proposed patrons and/or occupants of that structure. When necessary, the International Fire Code occupancy load calculations shall determine the number of patrons or occupants to be used in this calculation. Where more than one (1) use exists on a lot, parking regulations for each use must be met, unless it can be shown that peak times will differ for the uses.

<b>Parking</b>	
<b>Use Spaces</b>	<b>Required Parking</b>
Auto Sales and Service	1 for each 250 square feet GFA
Service Stations	1 for each 250 square feet GFA
Single-Family Dwellings and Duplex Dwellings	2.0 per dwelling unit
Multi-Family Dwellings	2.0 per dwelling unit
Mobile Home Parks	2.0 per dwelling unit*
Hotels and Motels	1 per guest room**
Funeral Homes and Mortuaries	20 for the first parlor, 5 for each additional parlor
Hospitals	1 per each bed**
Nursing Homes	1 per each 2 beds**
Schools	1 per each teacher and staff, 1 for each 4 classrooms plus 1 for each 4 high school students
Sports Arenas, Stadiums, Theaters, Churches, Auditoriums, Assembly Halls	1 per each 2 seats
Community Buildings, Social Halls, Dance Halls, Clubs and Lodges	1 space for each 30 square feet of public floor area
Roller Rinks	1 space for each 150 square feet GFA
Bowling Alleys	5 per alley
Banks and Offices	1 for each 250 square feet GFA

<b>Parking</b>	
<b>Use Spaces</b>	<b>Required Parking</b>
Medical Offices and Clinics for Humans	8 spaces per doctor
Dental Offices	5 spaces per doctor
Retail Stores	1 per each 250 square feet GFA
Fast Food/Drive-Through Restaurants	1 per each 2 patron seats**
Furniture Stores	1 per each 400 square feet GFA
Food Supermarkets	1 per each 250 square feet GFA
Mobile Homes and Monument Sales	1 per each 2,500 square feet of lot area
Restaurants, Taverns, and Nightclubs	1 for each 2.5 patron seats
Industrial and Manufacturing Establishments, Warehouses, Wholesale and Truck Terminals	1 space per employee, on the largest shift, plus 1 spare for each 10,000 GFA for visitors
Commercial Recreation (not otherwise covered)	1 space for every 2 persons permitted in maximum occupancy
Boarding or Rooming Houses	1 for each rental room
Convenience Stores	1 per every 200 square feet of GFA
<p>*Multi-family units devoted to the elderly shall only be required to provide 0.5 parking spaces per dwelling unit. Such uses must supply adequate proof they will be dedicated to elderly tenants and shall be required to follow normal parking standards if they revert to non-elderly use.</p> <p>**Plus 1 space per employee and staff on major shift.</p> <p><i>Note: GFA means gross floor area</i></p>	

- c. **Location and Parking:** Required parking spaces shall be located on the same lot with the principal use.
- d. **Screening and Landscaping:** Off-street parking areas for more than five (5) vehicles, and off-street loading areas, shall be effectively screened on any side which adjoins a residential district (see definition of Screening) or use.
- e. **Minimum Distance and Setbacks:** No off-street loading or parking area for more than five (5) vehicles shall be closer than ten (10) feet to any adjoining property line containing a dwelling, residential district, school, hospital, or similar institution.
- f. **Surfacing:** With the exception of single-family and two-family dwellings, all parking and loading areas and access drives shall have a dust-free surface, graded (lots with ten (10) or more spaces shall be paved) with positive drainage to prevent the flow of surface water onto neighboring properties or onto public rights-of-way. Parking areas larger than ten thousand (10,000) square feet shall submit a plan [see 307.2(h) below], including drainage provisions for approval. Lots shall be designed to provide for orderly and safe loading and parking.
- g. **Stormwater:** All parking areas shall comply with applicable Township, County, and State stormwater regulations and demonstrate relevant approval(s).
- h. **Lighting:** Any lighting used to illuminate off-street parking or loading areas shall be arranged so as to reflect the light away from the adjoining premises of any residential district or use and away from roads or highways. Fully shielded fixtures shall be required.
- h. **Parking Lot Landscaping:** The objective of this section is to improve the appearance of parking lots and to protect and preserve the appearance, character, and value of the surrounding neighborhoods and thereby promote the general welfare by providing for the installation and maintenance of landscaping for both screening and the lot interior for lots ten thousand (10,000) square feet or more. At least five percent (5%) of the parking lot

area, excluding perimeter screening, shall be landscaped. The landscaping plan shall use plant species suited for high traffic areas and for this geographic area. Landscaping shall be regularly maintained. Landscaping along public roads shall be maintained in low growing [under three (3) feet] shrubs and/or deciduous trees to allow adequate sight distance. Developers are encouraged to use landscaping methods to facilitate stormwater management.

- i. **Stacking Requirements for Drive-In, Drive-Through Facilities:** This section provides vehicle standards for drive-in, drive-through facilities. These may include such as banks, fast-food restaurants and car washes. The purpose of these standards is to provide minimal stacking capacity for various uses so vehicles will not use public roads while queuing in line for service. All references to stacking capacity relates to typical automobiles. A length of twenty (20) feet per auto will be used to accommodate one (1) vehicle and minimal head space. Minimal stacking lane width is nine (9) feet.

Use	Stacking Capacity Per Drive-In Window
Restaurant	8* per drive-in window
Bank	5 per drive-in window 3 per ATM
Car Wash	4 per wash bay
<i>*If there is a separate order box, 4 spaces to the order box and 4 to the pickup window may be allowed.</i>	

For other uses, guidelines from the Institute of Transportation Engineers may be used or the written recommendations of a professional traffic engineer.

*Note: Stacking capacity is to be measured from the lot line to the service window and is not to include any area of the public right-of-way.*

**307.3 Driveways:**

- a. **Minimum Use Driveways:** This section is intended for minimum use driveways.
  - (1) **Location:** A driveway will not be any closer than:
    - 30 feet to any road intersection.
    - 30 feet to any other driveway on the same side of the road.
    - If a driveway exists on the opposite side of the road, and is within twenty (20) feet of the proposed driveway, then the proposed driveway shall be aligned with the existing driveway if site conditions allow.
  - (2) **Width:** Minimum use driveways shall be ten (10) feet to twelve (12) feet in width with a reasonable radius flare where it connects the roadway.
  - (3) **Number of Driveways per Property:** For most properties, only one (1) driveway will be allowed. Where the lot is at least two hundred (200) feet in width, a second driveway may be approved if it meets all criteria of this Ordinance and there is at least thirty (30) feet in distance from the other driveways.

- (4) Sight Distance: Driveways shall provide a safe sight distance for those using the driveway. Locations on vertical or horizontal curves which limit sight distances will be avoided. Plantings shall be avoided where they might hinder safe sight distances. Sight distance shall follow accepted standards such as those of PennDOT (67 PA Code 441.8).
- (5) When the physical circumstances of any lot makes the application of these standards infeasible, the Township may grant minimal relief after consultation with the Township Engineer. (See also Ordinance 2-92.)
- b. **Other Driveways**: Driveways on state roads shall obtain a highway occupancy permit from the Pennsylvania Department of Transportation and provide evidence of same. Driveways other than minimum use driveways on Township roads shall follow PennDOT standards.
- c. See also Township Ordinance 2-92 as amended or reenacted.

**308 Water Recreation and Storage Areas:** Any facility for water recreation such as private swimming pools, swimming clubs, and commercial fishing ponds, or any other water storage facility such as reservoirs, fish hatcheries, sewage lagoons, and farm ponds shall comply with the following regulations: Note: All swimming pools, spas, and hot tubs are covered by the Uniform Construction Code.

**308.1:** The facility must meet the setback requirements of the district.

**308.2:** The facility, if operated to attract visitors, must comply with parking requirements established in this Ordinance.

**308.3:** Before a permit shall be issued to the operator or owner of the facility, a plan must be submitted to the Township showing the size of the facility, its proposed use, parking arrangements, the use of buildings on the site, surrounding properties and their usage and any other pertinent information. Any structures shall meet the requirements of the Uniform Construction Code.

**308.4:** Any water storage facility shall show compliance with appropriate State regulations, especially the Department of Environmental Protection and demonstrate there is no danger of flood damage to downstream properties.

**309 Junk and Junk Yards:**

**309.1:** The visible storage of junk is not permitted in any residential district (see also Ordinance 1-90, as amended or reenacted).

**309.2:** Junk yards are a conditional use in the I-1 Industrial District (see also Ordinance 2-78 as amended or reenacted).

**309.3:** Lots shall have a minimum area of five (5) acres.

**309.4:** A new zoning permit shall be obtained each year for junk yards.

**310: Agriculture:** Where agriculture is a permitted use, the following restrictions shall apply. These regulations are intended for farming, stable or riding academy operations and not for domestic pets.

- a. Barns, other buildings used for livestock, manure stockpiles and livestock pens shall be constructed no closer to the nearest lot line than the setback for that zoning district plus ten (10) feet.
- b. Barns, other buildings used for livestock, manure stockpiles and livestock pens shall be constructed no closer to the nearest water well, water impoundment or water course than one hundred twenty-five (125) feet.
- c. Farming activities not covered in this section shall comply with regulations of the Pennsylvania Department of Agriculture, relative to intensity of livestock density, confined feeding operations, manure management and related activities.
- d. **On-Site Agricultural Sales:** The sale of produce grown on the farm will be permitted; however, any structure used for sales shall be setback at least twenty-five (25) feet from the road right-of-way with adequate on-site parking.

**311 Individual Mobile Homes:** Individual mobile homes shall be permitted on individual lots only if they meet the following conditions:

- a. The proposed lot shall meet all area and yard requirements of the district.
- b. The installation of the mobile home shall comply with the Commonwealth of Pennsylvania Uniform Construction Code.
- c. The unit shall be permanently installed on piers or a foundation in a manner that complies with the manufacturer's recommendations.

**312: Lighting:** It is this Ordinance's policy to reduce glare by requiring "full cutoff" or "fully shielded" lighting fixtures unless.

**313: Signs:** Table 313A sets forth the type of signs permitted in Franklin Township by Zoning District. The details relative to size, lighting, structure, and related material can be found in the Franklin Township Sign Ordinance, Ordinance #2 of 2010 as amended or reenacted.

### Franklin Township Sign Table 313A

Sign face size below is in square feet. For two face signs double the area. If the sign is not allowed in that district, NA is shown.

Sign Type	Zoning District						
	A-1	A-2	R-1	R-2	B-1	I-1	SP1
Awning	NA	NA	NA	NA	P	P	NA
Banners, Pennants and Flags	P	P	P	P	P	P	NA
Billboard	NA	NA	NA	NA	NA	NA	P
Business Free-Standing	NA	NA	NA	NA	P	P	NA
Community Directory	P	P	P	P	P	P	NA
Construction	P	P	P	P	P	P	NA
Directional	P	P	P	P	P	P	NA
Historical Markers and Memorials	P	P	P	P	P	P	NA
Illuminated	P	P	P	P	Note 1	Note 1	NA
Marquee	NA	NA	NA	NA	P	P	NA
Moving	NA	NA	NA	NA	Note 1	Note 1	NA
Multiple Listing Entrance	NA	NA	NA	NA	P	P	NA
Municipal	Note 3	Note 3	Note 3	Note 3	Note 3	Note 3	Note 3
Name and Address	P	P	P	P	P	P	NA
No Trespassing	P	P	P	P	P	P	NA
Off-Premises Business Free-Standing	NA	NA	NA	NA	P	P	NA
On-Premise Information	NA	NA	NA	P	P	P	NA
Places of Worship	P	P	P	P	P	P	NA
Political	Note 3	Note 3	Note 3	Note 3	Note 3	Note 3	Note 3
Projecting	NA	NA	NA	NA	P	P	NA
Public Service	P	P	P	P	P	P	NA
Real Estate Management	P	P	P	P	P	P	NA
Real Estate Sales and Rental	P	P	P	P	P	P	NA
Roof	NA	NA	NA	NA	P	P	NA
Sidewalk	NA	NA	NA	NA	Note 2	Note 2	NA
Temporary Advertising	P	P	P	P	P	P	NA
Wall and Window	NA	NA	NA	NA	Note 2	Note 2	NA

Note 1: See sign classification for size

Note 2: See Sign Ordinance for formula

Note 3: See Sign Ordinance requirements

Note: NA designation, Not Allowed, P, Permitted. As noted above, see the Township's Sign Ordinance for details as to size and other requirements.

**314: Residential Wind Turbines:** These are devices used to convert wind energy for individual residential or farm usage. Such devices are allowed in all but "R" districts. They must be behind the principal structure and observe all yard setbacks.

## **Article 4 Administration and Enforcement**

**401 Zoning Officer:** The Zoning Officer, who shall be appointed by the Board of Supervisors, shall:

**401.1:** Administer literally and enforce the provisions of this Ordinance. (See also Section 403.)

**401.2:** Issue zoning permits.

**401.3:** Maintain a permanent file on all zoning permits and applications as public records.

**401.4:** Take in and review applications and issue such other permits, do inspections and have such other duties as assigned.

**401.5:** Receive all applications for appeals, special exceptions, and conditional uses and refer same to the proper bodies.

**401.6:** Determine the Zoning District. District boundaries that are shown within the lines of streets, streams, and transportation right-of-ways shall be deemed to follow the center lines. The vacation of streets shall not affect the location of such district boundaries. When the Zoning Officer cannot definitely determine the location of a district boundary by such center lines, by the scale or dimensions stated on the Zoning Map, or by the fact that it clearly coincides with a property line, he shall refuse action, and the Zoning Hearing Board, upon appeal, shall interpret the location of the district boundary with reference to the scale of the Zoning Map and the purpose set forth in all relevant provisions of this Ordinance.

In addition, the Zoning Officer shall review all applications for completeness and reject, in writing with cause given, any incomplete or incorrect application.

**402 Zoning Permits:** A zoning permit application shall be obtained at least thirty (30) days prior to the start of the project.

**402.1:** A zoning permit shall be obtained before any person may:

- a. Occupy or use any vacant land;
- b. Occupy or use any structure hereafter constructed, reconstructed, moved or enlarged;
- c. Change the use of a structure or land to a different use; or
- d. Change a nonconforming use.

**402.2:** Applications for a zoning permit shall be accompanied by an application provided by the Township and such other information as the Zoning Officer may require for administration of this Ordinance, together with a filing fee as periodically established by the Township.

**402.3:** All permits and certificates which are granted by the Zoning Officer or those granted as special exceptions, on appeal to the Board or as a conditional use shall be exercised promptly. If the use and/or the work so authorized are not initiated within six (6) months from the date of permit or certificate, then such certificate or permit may be renewed for one (1) six- (6) month period or it shall be null and void. Nothing shall prevent another application from being submitted upon payment of the appropriate fee and compliance with the application process contained herein. Permits shall contain an estimated starting date

for developments as well as an ending date. If development is not completed within these dates, the applicant shall apply for a permit de novo.

#### **403 Violations and Penalties:**

**Enforcement Notice:** When it appears to the Zoning Officer that a violation has occurred, the Zoning Officer shall send an enforcement notice. The enforcement notice shall be sent to the owner of record of the parcel on which the violation has occurred, to any person who has filed a written request to receive enforcement notices regarding the parcel, and to any other person requested in writing by the owner of record. The enforcement notice shall state the following:

- a. The name of the owner of record and any other person against whom the Township intends to take action.
- b. The location of the property in violation by address and tax parcel number(s).
- c. The specific violation with a description of the requirements which have not been met, citing in each instance the applicable provisions of this Ordinance.
- d. The date before which the steps for compliance must be commenced and the date before which the steps must be completed.
- e. That the recipient of the notice has the right to appeal to the Zoning Hearing Board within thirty (30) days.
- f. That failure to comply with the notice within the time specified, unless extended by appeal to the Zoning Hearing Board, constitutes a violation, with possible sanctions. These sanctions shall include a filing for additional fines (see Enforcement Remedies below) and a refusal to issue any other permits on this subject property.

**Causes of Action:** In case any building, structure, landscaping or land is, or is proposed to be, erected, constructed, reconstructed, altered, converted, maintained or used in violation of this Ordinance, the Township, the Zoning Officer of the Township, 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 Township at least thirty (30) days prior to the time the action is begun by serving a copy of the complaint on the Board of Supervisors of the Township of Franklin. No such action may be maintained until such notice has been given.

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

following the date of the determination of a violation continues shall constitute a separate violation by the district justice and thereafter each day that a violation continues shall constitute a separate violation. All judgments, costs and reasonable attorney fees collected for the violation of zoning ordinances shall be paid over to the Township. Nothing contained in this section shall be construed or interpreted to grant any person or entity other than the Township and its Zoning Officer the right to commence any action for enforcement pursuant to this Section.

**404 Method of Appeal:** Any person or Township official aggrieved or affected by any decision of the Zoning Officer may appeal to the Zoning Hearing Board within thirty (30) days, as provided by the Pennsylvania Municipalities Planning Code and by the rules of the Zoning Hearing Board, by filing a notice of appeal specifying the ground thereof. See also Section 506.

## **Article 5**

### **Amendments and Certain Notices of Actions and Decisions**

**501 General:** The Board of Supervisors may introduce and/or consider amendments to this Ordinance and to the Zoning Map, as proposed by a member of the Board of Supervisors, the Planning Commission, or by a petition of a person or persons residing or owning property within the Township.

**502 Petitions:** Petitions for amendments shall be filed with the Zoning Officer; and the petitioners, upon such filing, shall pay an advertising deposit and a filing fee, in accordance with a fee schedule fixed, from time to time, by the Board of Supervisors.

**503 Referral:** Any proposed amendment presented to the Board of Supervisors without written findings and recommendations from the Township of Franklin Planning Commission and the Erie County Planning Department shall be referred to these agencies for their review and recommendations prior to the public hearing by the Board of Supervisors. The Board of Supervisors shall not hold a public hearing upon such amendments until required reviews and recommendations are received or the expiration of thirty (30) days from the date that such proposed amendments were submitted to the Township of Franklin and the Erie County Planning Department.

**504 Action:** Before acting upon a proposed amendment, the Board of Supervisors shall, as required by law, hold a public hearing thereon. Public notice of such hearing is required and shall contain a brief summary of the proposed amendment and reference to the place where copies of the same may be examined, and shall be published in accordance with the provisions of the Pennsylvania Municipalities Planning Code. If the proposed amendment involves a change to the Zoning Map, notice of the public hearing shall be posted at the affected tract in accordance with Section 609 of the Planning Code at least one (1) week prior to the date of the hearing.

In addition to the requirements that notice be posted where the proposed amendment involves a Zoning Map change, notice of the public hearing shall be mailed by the Township at least thirty (30) days prior to the date of the hearing by first class mail to the addresses to which real estate tax bills are sent for all property located within the area being re-zoning, as evidenced by tax records within the possession of the Township. Notice shall include the location, date, and time of the public hearing. A good faith effort and substantial compliance shall satisfy the requirements of this subsection.

**505 Curative Amendments:** A landowner who desires to challenge on substantive grounds the validity of this Zoning Ordinance or Zoning Map or any provision thereof, which prohibits or restricts the use or development of land in which he has an interest, may submit a Curative Amendment to the Board of Supervisors with a written request that his challenge and proposed amendment be heard and decided as provided in Section 916 of the Pennsylvania Municipalities Planning Code (Act 247), as amended. The Board of Supervisors shall commence a hearing thereon within sixty (60) days. As with other proposed amendments, the Curative Amendment shall be referred to the Township of Franklin Planning Commission and the Erie County Planning Department at least thirty (30) days before the hearing is conducted by the Board of Supervisors. Public notice shall be given in accordance with applicable provision of the Planning Code. The hearings shall be conducted in accordance with instructions as set forth by Section 916.1 of the Planning Code. The findings, actions, and considerations of the Board of Supervisors shall be in accordance with Section 609.1 of the Planning Code.

The Township may institute a municipal Curative Amendment in accordance with Section 609.2 of the Municipalities Planning Code.

**506 Provision for Optional Notices:** In accordance with the provision of Act 39 of 2008 and Section 108 of the Pennsylvania Municipalities Planning Code, the Township of Franklin may publish a notice of

municipal action. This notice shall include amendments to this Ordinance or certain decisions that have been entered under this Ordinance. Typically, these would be the approval of conditional uses or special exceptions. Such notices shall include, among other items, any amendments to this Ordinance or the Zoning Map, decisions concerning conditional uses or special exceptions or any other decision as defined by Sections 107 and 108 of the Pennsylvania Municipalities Planning Code. Such notices are intended to set limits on the time for certain challenges.

**506.1 Content of a Notice of Municipal Action Relating to This Ordinance:**

- a. Municipal ordinance number, name, and a brief statement of the content of the ordinance.
- b. Address of the Township building and time when the ordinance can be read or viewed by the public.

**506.2 Content of a Notice of a Decision Entered Under This Ordinance:** Said notice shall contain:

- a. The name of the applicant or owner of the subject property.
- b. Street address, location of the property.
- c. The type of decision and the file or docket number of the decision.
- d. A brief description of the nature of the decision.
- e. The date of the decision.
- f. Address and business hours of the Township building where the decision can be read by the public.

**506.3 Statement of Purpose:** Notices provided under this section shall contain the following statement:

The publication of this announcement is intended to provide notification of the adoption of an ordinance or entering a decision and that any person claiming a right to challenge the validity of the ordinance or decision must bring a legal action within thirty (30) days of the publication of the second notice on this matter.

**506.4 Notice:** This notice shall be published in a newspaper of general publication once each week for two successive weeks. The dates of publication shall be included in the notice.

**506.5 Proof of Publication:** The Township shall obtain and keep in its records a proof of publication of the notice.

## **Article 6**

### **The Zoning Hearing Board and Conditional Uses**

**601 Creation:** There is hereby created a Zoning Hearing Board, herein referred in this Article as the “Board,” consisting of three (3) residents of the Township appointed by the Board of Supervisors pursuant to the Pennsylvania Municipalities Planning Code, as amended. Said Board shall perform all the duties, and exercise all powers prescribed by said Code and as herein further provided.

**602 Appointment:** The terms of office of the Board shall be three (3) years and shall be so fixed that the term of office of one (1) member shall expire each year. The Board shall promptly notify the Board of Supervisors of any vacancies which occur. Appointments to fill vacancies shall be only for the unexpired portion of the term. Members of the Board shall hold no other elected or appointed office in the Township, nor be a member of the Planning Commission. The Board of Supervisors shall also appoint two (2) alternate member(s) of the Board. It is the intention of the Township to retain the current zoning hearing board and the hearing board members shall continue to serve in their capacity for this ordinance with terms as set forth under the previous ordinance.

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

**604 Organization of Board:** The Board shall elect from its own membership its officers, who shall serve annual terms as such and may succeed themselves. For the conduct of any hearing or the taking of any action, a quorum shall be not less than the majority of all the members of the Board, but when any member is disqualified to act in a particular matter, an alternate member shall be seated. The Board may appoint a hearing officer from its own membership or appoint an independent attorney to conduct any hearing on its behalf, and the parties may waive further action by the Board as provided in Section 908 of the Planning Code. The Board may make, alter and rescind rules and forms for its procedure, consistent with Township ordinances and laws of the Commonwealth. The Board shall keep full public records of its business and shall submit a report of its activities to the Board of Supervisors annually.

**605 Expenditures for Services:** Within the limits of funds appropriated by the Board of Supervisors, the Board may employ or contract for secretaries, clerks, legal counsel, consultants and other technical and clerical services.

**606 Legal Counsel:** Where legal counsel is desired, an attorney, other than the Township Solicitor, shall be used.

**607 Hearings:** The Board shall conduct hearings and make decisions in accordance with Article IX of the Planning Code and the following requirements.

1. Notice of hearings shall be given to the public by public notice as set forth in the Planning Code in a newspaper of general circulation in the County. Such notice shall state the time and place of the hearing and the particular nature of the matter to be considered at the hearing. Written notice shall be given to the applicant, the Zoning Officer, and to any person who has made timely request for the same. Written notices shall be prescribed by rules of the Board. In addition to the notice provided herein, written notice of said hearing shall be conspicuously posted on the affected tract of land at least one (1) week prior to the hearing.
2. The Board of Supervisors may prescribe reasonable fees with respect to hearings before the Zoning Hearing Board. Fees for said hearings may include compensation for the Secretary and

members of the Zoning Hearing Board, notice and advertising costs and necessary administrative overhead connected with the hearing. The costs, however, shall not include legal expenses of the Zoning Hearing Board, expenses for engineering, architectural, or other technical consultants or expert witness costs.

3. The first hearing shall be held within sixty (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 shall be held within forty-five (45) days of the prior hearing unless otherwise agreed to by the applicant in writing or on the record. An applicant shall complete the presentation of his case-in-chief within one hundred (100) days of the first hearing. Upon the request of the applicant, the Board or Hearing Officer shall assure that the applicant receives at least seven (7) hours of hearings within the one hundred (100) days, including the first hearing. Persons opposed to the application shall complete the presentation of their opposition to the application within one hundred (100) days of the first hearing held after the completion of the applicant's case-in-chief. An applicant may, upon request, be granted additional hearings to complete his case-in-chief provided the persons opposed to the application are granted an equal number of additional hearings. Persons opposed to the application may, upon the written consent or consent on the record by the applicant and Township, be granted additional hearings to complete their opposition to the application provided the applicant is granted an equal number of additional hearings for rebuttal.
4. The hearings shall be conducted by the Board or the Board may appoint any member or an independent attorney as a Hearing Officer. The decision, or, where no decision is called for, the findings shall be made by the Board, but the parties may waive decision or findings by the Board and accept the decision or findings of the Hearing Officer as final.
5. The parties to the hearing shall be the Township, any person affected by the application who has made timely appearance of record before the Board, and any other person including civic or community organizations permitted to appear by the Board. The Board shall have power to require that all persons who wish to be considered parties enter appearances in writing on forms provided by the Board for that purpose.
6. 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.
7. 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.
8. Formal rules of evidence shall not apply, but irrelevant, immaterial, or unduly repetitious testimony or evidence may be excluded.
9. The Board or the Hearing Officer, as the case may be, shall keep a stenographic record of the proceedings. The appearance fee for a stenographer shall be shared equally by the applicant and the Board. The cost of the original transcript shall be paid by the Board if the transcript is ordered by the Board or Hearing Officer or shall be paid by the person appealing from the decision of the Board if such appeal is made, and in either event the cost of additional copies shall be paid by the person requesting such copy or copies. In other cases the party requesting the original transcript shall bear the cost thereof.

10. 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, except that advice from the Board's Solicitor is exempt from this restriction; 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 representative unless all parties are given an opportunity to be present.
11. 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 application is contested or denied, each decision shall be accompanied by findings of fact and conclusions based thereon together with the reasons therefore. Conclusions based on any provisions of this Ordinance or the Planning Code, or any 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. Except for challenges filed under 916.1 of the Planning Code, where the Board fails to render the decision within the period required by this Ordinance or the Planning Code, or fails to commence, conduct, or complete the required hearing as required by Article IX of the Planning Code, 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 herein above provided, the Board shall give public notice of said decision within ten (10) days in the same manner as provided in Subsection 607(1) of this Ordinance. Nothing in this subsection shall prejudice the right of any party to appeal the decision to a court of competent jurisdiction.
12. A copy of the final decision or, where no decision is called for, of the findings shall be delivered to the applicant personally or mailed to him not later than the day following its date. To all other persons who have filed their name and address with the Board no later than the last day of the hearing, the Board shall provide by mail or otherwise, a brief notice of the decision or findings and a statement of the place at which the full decision or findings may be examined.

**608: The Zoning Hearing Board's Functions and Jurisdiction:** The Zoning Hearing Board shall have exclusive jurisdiction to hear and render final adjudications in the following matters:

1. Substantive challenges to the validity of any land use ordinance, except those brought before the governing body pursuant to Sections 609.1 and 916.1(a)(2) of the Planning Code.
2. 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. Where the ordinance appealed from is the initial zoning ordinance of the Township and a zoning hearing board has not been previously established, the appeal raising procedural questions shall be taken directly to court. (See also section 506 of this Ordinance and Act 39 of 2008.)
3. 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 therefore, the issuance of any cease and desist order or the registration or refusal to register any nonconforming use, structure or lot.

4. Appeals from a determination by the Township Engineer or the Zoning Officer with reference to the administration of any floodplain or flood hazard ordinance or such provisions within a land use ordinance.
5. Applications for variances from the terms of the Zoning Ordinance and flood hazard ordinance or such provisions within a land use ordinance, pursuant to Section 910.2 of the Planning Code and Section 807 of this Ordinance.
6. Applications for special exceptions under this Ordinance or the floodplain ordinance.
7. Appeals from the Zoning Officer's determination under Section 916.2 of the Planning Code.
8. Appeals from the determination of the Zoning Officer or Township Engineer in the administration of any land use ordinance or provision thereof with reference to sedimentation and erosion control and stormwater management insofar as the same relate to development not involving Article V or VII applications of the Planning Code.
9. **Variances:** The Board shall hear requests for variances where it is alleged that the provisions of this Ordinance inflict unnecessary hardship upon the applicant. The Board may by rule prescribe the form of application and may require preliminary application to the Zoning Officer. The Board may grant a variance provided that all of the following findings are made where relevant in a given case:
  - a. That there are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property, and that the unnecessary hardship is due to such conditions, and not the circumstances or conditions generally created by the provisions of this Ordinance in the neighborhood or district in which the property is located;
  - b. That because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of this Ordinance and that the authorization of a variance is therefore necessary to enable the reasonable use of the property;
  - c. That such unnecessary hardship has not been created by the applicant;
  - d. That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare; and
  - e. That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible of the regulation in issue.

In granting any variance, the Board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purpose of this Ordinance.
10. **Special Exceptions:** The Board shall hear and decide requests for such special exceptions in accordance with the standards and criteria of this Ordinance. In granting a special exception, the Board may attach such reasonable conditions and safeguards, in addition to those expressed in

this Ordinance, as it may deem necessary to implement the purposes of the Planning Code and the Zoning Ordinance.

When this Ordinance requires certificates, licenses, permits or similar documents, and when, in the Board's opinion, such documents will be issued in a matter of time, the Board may issue a conditional approval based upon the final issuance of such documents.

**609 Parties Appellant Before Board:** Appeals under Section 608 and proceedings to challenge the Ordinance under Section 608 may be filed with the Board, in writing, by the landowner affected, any officer or agency of the Township, or any person aggrieved. Requests for a variance under Section 608 may be filed with the Board by any landowner or any tenant with the permission of such landowner.

**610 Time Limitations; Persons Aggrieved:** No person shall be allowed to file any proceeding with the Board later than thirty (30) days after an application for development, preliminary or final, has been approved by an appropriate 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, he shall be bound by the knowledge of his predecessor in interest. See also Section 914.1 of the Planning Code.

**611 Stay of Proceedings:** Upon filing of any proceeding referred to in Section 913.3 of the Pennsylvania Municipalities Planning Code and during its pendency before the Board, all land development pursuant to any challenged ordinance, order or approval of the Zoning Officer or of any agency or body, and all official action thereunder shall be stayed unless the Zoning Officer or any other appropriate agency or body certifies to the Board facts indicating that such stay would cause imminent peril to life or property, in which case the development or official action shall not be stayed otherwise than by a restraining order, which may be granted by the Board or by the court having jurisdiction of zoning appeals on petition after notice to the Zoning Officer or other appropriate agency or body. See also Section 915.1 of the Planning Code.

**612 Conditional Uses:** Certain uses, as specified by this Ordinance, are conditional uses to be granted or denied by the Board of Township Supervisors. The Planning Commission is to advise the Board of Township Supervisors relative to conditional uses. In general, the Board of Township Supervisors is to be governed by the specific criteria set forth by this Ordinance, the general intent of the Ordinance, the welfare of the community and the recommendations of the Planning Commission in rendering its decision. The Board of Supervisors may attach reasonable conditions to its decision. Specific procedures for action follow:

1. Where the Board of Township Supervisors, in the zoning ordinances, has stated conditional uses to be granted or denied by the Board of Supervisors pursuant to express standards and criteria, the Board of Supervisors shall hold hearings on and decide requests for such conditional uses in accordance with such standards and criteria. The hearing shall be conducted by the Board of Supervisors or the Board of Supervisors may appoint any member or an independent attorney as a hearing officer. The decision, or, where no decision is called for, the findings shall be made by the Board of Supervisors. However, the appellant or the applicant, as the case may be, in addition to the Township, may, prior to the decision of the hearing, waive decision or findings by the Board of Supervisors and accept the decision or findings of the Hearing Officer as final. In granting a conditional use, the Board of Supervisors may attach such reasonable conditions and safeguards, in addition to those expressed in the Ordinance, as it may deem necessary to implement the purposes of this act in the Zoning Ordinance.

2.

- a. The Board of Supervisors shall render a written decision or, when no decision is called for, make written findings on the conditional use application within forty-five (45) days after the last hearing before the Board of Supervisors. Where the application is contested or denied, each decision shall be accompanied by findings of fact or conclusions based thereon, together with any reasons thereof. Conclusions based on any provisions of the Planning Code or of any ordinance, rule or regulation shall contain a reference to the provision relied on and the reasons why the conclusion is deemed appropriate in 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 commence, conduct or complete the required hearing, as provided in Section 908 (1.2) of the Pennsylvania Municipalities Planning Code, 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 herein above provided, the Board of Supervisors shall give public notice of the decision within ten (10) days from the last day it could have met to render a decision in the same manner as required by the public notice requirements of this act. 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 7 Definitions**

For the purpose of this Ordinance, certain terms and words are hereby defined. Words used in the present tense shall include the future, the singular number shall include the plural and the plural number shall include the singular; the word “shall” is mandatory, the word “may” is permissive; the word “person” includes a firm, association, organization, partnership, trust, company or corporation as well as an individual; the words “used” or “occupied” include the words intended, designed, or arranged to be used or occupied. Words and phrases not herein defined shall have their normal meaning and usage.

**Accessory Building:** A subordinate building, the use of which is customarily incidental to that of the principal building on the same lot.

**Accessory Use:** A use that is subordinate to and customarily associated with the principal use of a lot or a building and located on the same lot.

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

**Adult Day Care Service:** Provides a program of activities within a licensed protective, nonresidential setting to four (4) or more enrolled adults to four (4) or more enrolled adults who are not capable of full-time independent living.

**Agricultural Operation:** An enterprise that is actively engaged in the commercial production and preparation for market of crops, livestock and livestock products and in the production, harvesting, and preparation for market or use of agricultural, agronomic, horticultural, silvicultural, and aquacultural crops and commodities. The term includes an enterprise that implements changes in production practices and procedures or types of crops, livestock, livestock products or commodities produced consistent with technological development within the agricultural industry.

**Agricultural Related Business:** Business and related services for farming, horticulture and agriculture, such as feed mills, seed sales, and farm machinery sales and services.

**Assisted Living Facility:** Residences for the frail or elderly that provide rooms, meals, personal care, and supervision of self-administered medication. They may provide other services such as recreational activities, financial services, and transportation. They are distinguished from personal care boarding homes by their larger size and additional ancillary services.

**Automotive Salvage:** See Scrap Yard.

**Basement:** A portion of a building located partly underground, but having less than half of its clear floor-to-ceiling height below the average grade of the adjoining ground.

**Board:** The Zoning Hearing Board of the Township of Franklin, or the Franklin Township Zoning Hearing Board, as appropriate.

**Boarding House:** See definition of Rooming/Boarding House.

**Building:** Any structure designed or intended for the support, enclosure, shelter, or protection of persons, animals or property.

**Building, Height:** The vertical distance from the average elevation at grade level to the highest point of the deck of a flat roof or a mansard roof or the mean height between the eaves and the ridge for gable, hip and gambrel roofs.

**Building or Setback Line:** The imaginary line parallel to or concentric with the nearest road right-of-way line. No portion of a building foundation or wall may extend nearer the lot line than the required front yard depth.

**Business Service:** Any business activity that renders service to other commercial or industrial enterprises.

**Club:** An establishment operated by an organization for social, recreational, educational and fraternal purposes, but open only to members and their guests and not the general public.

**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.

**Commercial Indoor Recreation:** A commercial indoor facility, which offers various recreational opportunities for its patrons, including such activities as dance halls, indoor concerts, fitness centers, physic readings, video and various games.

**Commercial Outdoor Recreation:** Any commercial outdoor recreational activity not regulated otherwise by this Ordinance.

**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 whip antennas and directional 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.

**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 two hundred fifty (250) square feet.

**Communications Tower:** A structure other than a building, such as a monopole, self-supporting or guyed tower, designed and used to support communications antennas.

**Convenience Store:** A retail business with primary emphasis on quick purchases from a limited variety of consumable goods, typically gasoline, snacks, food and related sundries, of up to five thousand (5,000) square feet in building size. These are typically located along high traffic roads and have extended business hours, with most products consumed off the premises.

**County:** The County of Erie, Pennsylvania.

**Day Care for Children:** This use is separated into three categories by this Ordinance. They are as follows:

**Child Day Care Center:** The premises in which care is provided at any one time for seven or more children unrelated to the operator.

**Child with a Disability:** A child who does not function according to age-appropriate expectations in the areas of emotional, cognitive, communicative, perceptual-motor, physical or social development and requires special adaptations, program adjustments and related services on a regular basis to function in a adaptive manner. Examples of a child with a disability include a child who has:

- a. A developmental delay.
- b. A neurologically based condition, such as mental retardation, cerebral palsy, autism, epilepsy or another condition closely related to mental retardation or requiring treatment similar to that required by mentally retarded children.
- c. Mental retardation associated with sociocultural or psychosocial disadvantage.
- d. A genetic disorder or physiological condition usually associated with mental retardation.

**Family Child Day Care Home:** A home other than the child's own home, operated for profit or not for profit, in which child day care is provided at any one time to four (4), five (5), or six (6) children unrelated to the operator.

**Group Child Day Care Home:** The premises in which care is provided at one time for more than six older school-age level children or more than six (6) but fewer than thirteen (13) children of another age level who are unrelated to the operator. The term includes a facility located in a residence or another premises. *(Note: For clarification, see Title 55, Chapter 3270 of the Pennsylvania Municipalities Planning Code.)*

**Designated or Targeted Growth Area:** A region within a county or counties described in a municipal or multi-municipal plan that preferably includes and surrounds a city, borough, or village, and within which residential and mixed-use development is permitted or planned for at densities of one (1) unit to the acre or more, commercial, industrial, and institutional uses are permitted or planned for, and public infrastructure services are provided or planned.

**Drive-In/Drive-Through Business:** A place providing service to the occupants of automobiles, usually without requiring the occupants to leave the automobile. Such service includes banking, and serving food or drink to the occupants.

**Dwelling:** Any building or portion thereof which is designed for or used for residential purposes. The word "Dwelling" shall not include hotels, motels, or other structures used for transient residence.

**Dwelling/One-Family or Single Family:** A building designed for or occupied by one (1) family only.

**Dwelling/Two-Family:** A building designed for or occupied by two (2) families living independently of each other, also known as a duplex.

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

**Elderly Housing:** Multi-family dwelling developments restricted to residents who are handicapped, as defined by federal law or who are aged fifty-five (55) and older. Such restriction must be duly certified and if the development reverts to a general population, it will be considered a change of use, which must conform to this Ordinance.

**Emergency Services:** Emergency services shall include, fire departments, police services, ambulance and emergency response services.

**Essential Service:** 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, including poles, wires, mains, drains, sewers, pipes, conduit cables, fire alarm boxes, police call boxes, traffic signals, hydrants, road signs, and other similar equipment and accessories in connection therewith, reasonably necessary for the furnishing of adequate service by such public utilities or municipal or other governmental agencies or for the public health, safety, or general welfare.

**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 family is:

- a. A single person occupying a dwelling unit and maintaining a household, or
- b. Two (2) or more persons related by blood, marriage or adoption, occupying a dwelling unit, living together and maintaining a common household, including not more than two (2) boarders or roomers. For the purpose of this Ordinance, foster children shall be considered adopted.
- c. Not more than three (3) unrelated persons occupying a dwelling unit, living together and maintaining a common household.

- d. Permanent group homes for the handicapped or family-like living arrangements for handicapped persons. *Please note: Handicapped persons shall be those who are so designated under the Fair Housing Amendment (1988) to the Federal Civil Rights Act of 1964.*

**Family Day Care Home:** (See Day Care for Children.)

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

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

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

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

**Floor Area:** The sum of the gross horizontal areas of one or more floors of a building.

**Garage, Private:** An accessory building or part of a principal building used only for the storage of private motor vehicles and other personal affects of the occupants of the principal structure.

**Group Home:** A facility to provide for the shelter, food and care of non-handicapped persons, which may also provide some combination of personal care, social or counseling services.

**Garage, Service:** A building or part thereof used for the repair of motor vehicles for remuneration, but not used for the dismantling or scrapping of motor vehicles.

**Height of a Telecommunications Tower:** The vertical distance measured from the ground level to the highest point on a communications tower, including antennas mounted on the tower.

**Hospital:** Any establishment where human patients are examined and treated by doctors or dentists and may reside temporarily. Hospitals include nursing or convalescent homes.

**Identification Sign:** Signs advertising the occupant's business, industry, or products made or sold on the premises and located on the same lot as the business or industry.

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

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

**Junk Yard:** (See Scrap Yard)

**Limited Retail:** A retail operation with three thousand (3,000) square feet or less of gross floor area.

**Lighting, Fully Shielded:** A lighting fixture that is approved by the International Dark Sky Association and bears the IDA Fixture Seal of Approval.

**Lot:** A parcel of land abutting on a public road.

**Lot, Corner:** A lot abutting two (2) or more roads at their intersections.

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

**Lot, Double Frontage:** A lot having frontage on two (2) non-intersecting roads, as distinguished from a corner lot.

**Lot Lines:** Any lot line fronting on a public road or highway shall use the right-of-way line and not include any public right-of ways to determine required front, side, or rear yard setbacks.

**Lot, Interior:** A lot other than a corner lot.

**Lot of Record:** The last recording of a lot in the Office of Recorder of Deeds of Erie County prior to the adoption of this Zoning Ordinance.

**Lot, Width:** The width of a lot measured at the minimum building line and parallel to the road.

**Manufacturing:** The processing and fabrication of any article, substance or commodity. For the purpose of this Ordinance, two types of manufacturing are recognized: light manufacturing and heavy manufacturing.

This Ordinance makes the distinction between these two uses by employing two separate sets of criteria. A traditional approach that is concerned with the impact that a use has upon surrounding properties:

**Heavy Manufacturing** includes the processing of paper, pulp, or paperboard; the manufacture of chemicals; the processing of petroleum products, leather tanning; stone, clay or glass products; the primary metals industry, the manufacture, repair, or rehabilitation of heavy equipment, the manufacture of motors, railroad equipment and similar activities which would use heavy equipment or motors of ten (10) horsepower or greater. Any activity which uses heavy presses, drop forges or is engaged in forging or foundry work. Heavy industry is also defined as any manufacturer which employs one hundred fifty (150) or more persons or which will receive or generate twenty-five (25) or more truck visits/trips per day.

**Light Manufacturing** – Any manufacturing not classified as heavy.

**Minimum Use Driveway:** A residential or other driveway which is used, or expected to be used, by not more than twenty-five (25) vehicles per day.

**No-Impact Home-Based Business:** A business or commercial activity administered or conducted as an accessory use which is clearly secondary to the use as a residential dwelling and which involves no customer, client or patient traffic, whether vehicular or pedestrian, pickup, delivery or removal functions to or from the premises, in excess of those normally associated with residential use. The business or commercial activity must satisfy the following requirements:

- 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 must 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 twenty-five percent (25%) of the habitable floor area.

**Nonconforming:** There are three (3) separate types of nonconformity recognized by the Pennsylvania Municipalities Planning Code, and these are listed below. The nonconforming status is granted only to the

use, lot, or structure legally existing at the date of the adoption of this Ordinance or any amendment thereto which created the nonconformity. Nonconformity shall not be extended to additional property subsequently acquired.

**Nonconforming Lot:** A lot the area of dimension of which was lawful prior to the adoption or amendment of this Zoning Ordinance, but which fails to conform to the requirements of the zoning district in which it is located by reasons of such adoption or amendment.

**Nonconforming Structure:** A structure or part of a structure manifestly not designed to comply with the applicable use or extent of use provisions in this Zoning Ordinance or amendments heretofore or hereafter enacted, where such structure lawfully existed prior to the enactment of such ordinance or amendment or prior to the application of such ordinance or amendment to its location by reason of annexation. Such nonconforming structures include, but are not limited to, nonconforming signs.

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

**Off-Street Parking Lot:** Any area arranged, designed, used or intended for use for the parking of five (5) or more motor vehicles.

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

**Outdoor Advertising:** Any sign that is not an identification sign.

**Outdoor Commercial Recreation:** A place designed and equipped for the conduct of outdoor sports and leisure time activities that is operated as a business and open to the public for a fee. Examples of such uses are picnic groves, tennis courts and field games. For the purpose of this Ordinance, such uses are further divided into two classifications, which include High-Impact Outdoor Recreation. In this latter category are such uses as race tracks, motocross facilities, paintball games, and similar activities.

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

**PennDOT:** The Pennsylvania Department of Transportation

**Personal Care Boarding Home (Personal Care Home):** A premise in which food, shelter, and personal assistance or supervision are provided for a period exceeding twenty-four (24) hours for four or more adults but not more than six (6) adults who are not relatives of the operator, who do not require the services in or of a licensed long-term care facility, but who do require assistance or supervision in activities of daily living or instrumental activities of daily living.. These facilities must meet the standards of the Pennsylvania Department of Welfare. These premises shall also provide proof that adequate potable water and sanitary services shall be provided.

**Personal Services:** Any commercial establishment providing services pertaining to the person, his apparel or personal and effects commonly carried on or about the person and including automatic teller machines (excluding drive-in facilities), shoe repair, tailoring, and clothes cleaning on the premises of wearing apparel brought to the establishment by the customer.

**Planning Code:** The Pennsylvania Municipalities Planning Code, Act of 1968, P. L. 805, No. 247, as reenacted and amended.

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

**Porch:** A permanently covered entrance to a building.

**Portable Storage Units:** These are box-type, ground-level, storage units, no more than eight (8) feet wide, seven (7) feet high, and up to twenty (20) feet long. They are designed to facilitate residential moves or to supply a temporary storage facility during home remodeling. Typical brands are PODS, SAM, and PSU.

**Principal Use:** That use or purpose for which a building, structure, and/or land or major portion thereof, is designed, arranged, or intended, or for which it may be occupied or maintained under the Zoning Ordinance. The use of any minor portion of the building or structure or other building, structure and/or land on the same lot and incident, subordinate, or supplementary thereto and permitted under the Zoning Ordinance shall be considered an accessory use.

**Professional Services:** Any office or establishment providing specialized services to the community in the commonly recognized professions (education, engineering, law, medicine, philosophy, science, theology), the arts (architecture, drama, music, painting, photography, writing), and similar activities (insurance, real estate, etc.).

**Public Notice:** Notice published once each week for two (2) successive weeks in a newspaper of general circulation in the municipality; or other notice schedule as required by Pennsylvania Law. Such notice shall state the time and place of the hearing and the particular nature of the matter to be considered at the hearing. Unless otherwise required by Pennsylvania Law, the first publication shall not be more than thirty (30) days and the second publication shall not be less than seven (7) days from the date of the hearing.

**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 electric transmission lines.

**Reconstruction:** Any or all work needed to remake or rebuild all or a part of any identified historic resource to a sound condition, but not necessarily of original materials.

**Recreational Vehicle:** A vehicle which is (i) built on a single chassis; (ii) contains not more than four hundred (400) square feet, measured at the largest horizontal projections; (iii) designed to be self-propelled or permanently towable by a light-duty truck; (iv) not designed for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

**Regulatory Flood Elevation:** The one hundred (100) year flood elevation plus a freeboard safety factor of one-and-one-half (1½) feet.

**Rooming/Boarding Homes:** A dwelling unit or part thereof, in which lodging\* and meals\* are provided, for compensation.

*\*A rooming house provides for lodging only.*

**Retail Uses:** Any commercial establishment offering goods, merchandise or other items for sale at retail to the consumer and including bake shops and candy shops where foods are prepared for sale on the premises.

**Salvage Yards:** (See Scrap Yards)

**Scrap (Junk or Salvage) Yards:** A place where waste, discarded or salvaged materials are bought, sold, exchanged, stored, baled, cleaned, packed, disassembled or handled, including auto wrecking yards, house wrecking yards, used lumber yards, and places for yards for use of salvaged house wrecking and structural steel materials and equipment, but excluding such uses when conducted entirely within a completely enclosed building and establishments for the sale, purchase or storage of salvaged machinery, used furniture and household equipment, and the processing of used, discarded or salvaged material as part of manufacturing operations.

**Screening:** Unless otherwise defined in this Ordinance, screening shall mean a fence, screen planting or wall at least six (6) feet high, provided in such a way that it will block a line of sight. Screen planting shall mean an evergreen hedge at least six (6) feet high, planted in such a way that it will block a line of sight. The screening may consist of either one (1) or multiple rows of bushes or trees and shall be at least twenty (20) feet wide.

**Service Station:** Service station or “gas station” means a place of retail 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 vehicles and the fulfilling of motorist needs. These may include sale of petroleum products; sale and servicing of tires, batteries, automotive accessories and replacement items; washing and lubrication services; the performing of minor automotive maintenance and repair; and the supplying of other incidental customer services and products.

**Structure:** Anything constructed or erected, the use of which requires a fixed location on the ground or an attachment to something having a fixed location on the ground, including, in addition to buildings, billboards, signs, carports, porches, swimming pools, and other building features but not including sidewalks, drives, fences, and porches without a roof or enclosed sides.

**Structure, Height of:** The vertical height measured from the elevation of the curb to the highest point of the coping of a flat roof, or to the deck line of a mansard roof, or to the average height of a gabled roof.

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

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

**Supply Yards:** A commercial establishment storing or offering for sale building supplies, commercial construction supplies, steel supplies, coal, heavy equipment, feed and grain, and similar goods. Supply yards do not include the wrecking, salvaging, dismantling or storage of automobiles and similar vehicles.

**Stealth Tower:** A telecommunications tower that is disguised or hidden to blend in with nature or structures.

**Telecommunications Antenna:** An antenna, tower, or other accessory structures for radio frequency (RF) transmissions or receptions intended for specific commercial users who must have special equipment for transmission and/or reception.

**Telecommunications Tower:** A structure built primarily to hold commercial telecommunication antennas.

**Townhouse(s):** A one-family dwelling in a row of at least three (3) such units in which each unit has its own front and rear access to the outside, no unit is located over another unit and each unit is separated from another unit by a common wall.

**Township:** The Township of Franklin, Erie County, Pennsylvania.

**Township Engineer:** The engineer so designated by the Franklin Township Board of Supervisors.

**Yard, Front:** An open, unoccupied space across the full width of the lot, extending from the front line of the building to the front property line of the lot.

**Yard, Rear:** An open, unoccupied space across the full width of the lot extending from the rear line of the building to the rear property line of the lot.

**Yard, Side:** An open, unoccupied space extending from the front yard to the rear yard line between a building and the nearest side of the lot.

**Zoning Officer:** The Zoning Officer or his/her authorized representative, appointed by the Township Board of Supervisors.

**Article 8**  
**A-2 Conservation District**  
**General Provisions – Floodplain Regulations**

**801 Intent:** The intent of this Article is to:

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

**801.1 Applicability:**

- A. It shall be unlawful for any person, partnership, business or corporation to undertake, or cause to be undertaken, any construction or development anywhere within the Township unless the needed permits have been obtained from the Zoning and Code Officer.
- B. A building permit may not be required for minor repairs to existing buildings or structures.

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

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

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

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

## **802 Administration:**

### **802.1 Zoning, Assessment and Building Permits Required:**

- A. The Zoning and Code Officers 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 this and all other applicable codes and ordinances.
- B. Prior to the issuance of any permit, the Zoning and Code Officers shall review the application for the permit to determine if all other necessary government permits required by State and Federal laws have been obtained, such as those required by the Pennsylvania Sewage Facilities Act (Act 1966-537, as amended); the Pennsylvania Dam Safety and Encroachments Act (Act 1978-325, as amended); the Pennsylvania Clean Streams Act (Act 1937-394, as amended); and the U.S. Clean Water Act, Section 404, 33, U.S.C. 1344. No permit shall be issued until this determination has been made.
- C. No encroachment, alteration, or improvement of any kind shall be made to any watercourse until all adjacent municipalities which may be affected by such action, have been notified by the Township and until all required permits or approvals have been first obtained from the Department of Environmental Protection Regional Office.

In addition, the Federal Emergency Management Agency and Pennsylvania Department of Community and Economic Development shall be notified by the Township prior to any alteration or relocation of any watercourse.

### **802.2 Application Procedures and Requirements:**

- A. Application for a permit shall be made, in writing, to the Zoning and Code Officers on forms supplied by the Township. Such application shall contain the following:
  - 1. Name and address of applicant.
  - 2. Name and address of owner of land on which proposed construction is to occur.
  - 3. Name and address of contractor.
  - 4. Site location including address.
  - 5. Listing of other permits required.
  - 6. Brief description of proposed work and estimated cost, including a breakout of the flood-related cost and the market value of the building before the flood damage occurred.
  - 7. A plan of the site showing the exact size and location of the proposed construction as well as any existing buildings or structures.
- B. 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 Zoning and Code Officers to determine that:
  - 1. All such proposals are consistent with the need to minimize flood damage and conform to the requirements of this and all other applicable codes and ordinances;

2. All utilities and facilities, such as sewer, gas, electrical and water systems are located and constructed to minimize or eliminate flood damage; and
  3. Adequate drainage is provided so as to reduce exposure to flood hazards.
- C. Applicants shall file the following minimum information plus any other pertinent information (e.g., any or all of the technical information contained in Section 805) as may be required by the Zoning and Code Officers to make the above determination:
1. Completed Zoning, Assessment and Building Code Permit application forms.
  2. A plan of the entire site, clearly and legibly drawn at a scale of one (1) inch being equal to one hundred (100) feet or less, showing the following:
    - a. North arrow, scale, and date;
    - b. Topographic contour lines, if available;
    - c. All property and lot lines including dimensions, and the size of the site expressed in acres or square feet;
    - d. The location of all existing and proposed buildings, structures, and other improvements, including the location of any existing or proposed subdivision and land development;
    - e. The location of all existing streets, drives, and other accessways; and
    - f. The location of any existing bodies of water or watercourses, identified floodplain, areas, and, if available, information pertaining to the floodway, and the flow of water including direction and velocities.
  3. Plans of all proposed buildings, structures and other improvements, drawn at suitable scale showing the following:
    - a. The proposed lowest floor elevation of any proposed building based upon North American Vertical Datum of 1988;
    - b. The elevation of the one hundred (100) year flood;
    - c. If available, information concerning flood depths, pressures, velocities, impact and uplift forces and other factors associated with a one hundred (100) year flood; and
    - d. Detailed information concerning any proposed floodproofing measures.
    - e. Supplemental information as may be necessary under 34 PA Code, Chapter 401-405 as amended, and Sec.1612.5.1, Section 104.7 and 109.3 of the 2003 IBC and Section R106.1.3 and R104.7 of the 2003 IRC, or the equivalent sections of the currently approved version of the IBC or IRC.
  4. The following data and documentation:

- a. 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 one hundred (100) year flood elevations, pressures, velocities, impact and uplift forces associated with the one hundred (100) year flood.

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

- b. Detailed information needed to determine compliance with Section 804.1, F., Storage, and Section 804.2, Development Which May Endanger Human Life, including:
  - (1) The amount, location and purpose of any dangerous materials or substances which are intended to be used produced, stored or otherwise maintained on site.
  - (2) A description of the safeguards incorporated into the design of the proposed structure to prevent leaks or spills of the dangerous materials or substances listed in Section 804.2 during a one hundred (100) year flood.
- c. The appropriate component of the Department of Environmental Protection's "Planning Module for Land Development."
- d. Where any excavation of grading is proposed, a plan meeting the requirements of the Department of Environmental Protection, to implement and maintain erosion and sedimentation control.

**802.3 Review by County Conservation District:** A copy of all applications and plans for any proposed construction or development in any identified floodplain, riparian or stream area to be considered for approval shall be submitted by the Zoning and Code Officers, or the applicant, to the Erie County Conservation District for review and comment prior to the issuance of a permit. The recommendations of the Erie County Conservation District shall be considered by the Zoning and Code Officers for possible incorporation into the proposed plan.

**802.4 Review of Application by Others:** A copy of all plans and applications for any proposed construction or development in any identified floodplain, riparian or stream area to be considered for approval may be submitted by the Zoning and Code Officers to any other appropriate agencies and/or individuals (e.g. planning commission, township engineer, etc.) for review and comment.

**802.5 Changes:** After the issuance of a permit by the Zoning and Code Officers, no changes of any kind shall be made to the application, permit or any of the plans, specifications or other documents submitted with the application without the written consent or approval of the Zoning and/or Code Officers (as appropriate). Requests for any such change shall be in writing, and shall be submitted by the applicant to the Zoning and/or Code Officers for consideration. Appropriate justification(s) shall be provided to the Township at the expense of the applicant/developer.

**802.6 Placards:** In addition to the zoning and construction code permits, the Township shall issue a placard which shall be displayed on the premises during the time construction is in progress. This placard shall show all permit numbers, the dates of issuance and be signed by the Zoning or Code Officer.

**802.7 Start of Construction:** Work on the proposed construction and/or development shall begin within six (6) months and shall be completed within twelve (12) months after the date of issuance of the permit or the permit shall expire unless a time extension is granted, in writing, by the Township. Construction and/or development shall be considered to have started with the preparation of land, land clearing, grading, filling, excavation of basement, footings, piers, or foundations, erection of temporary forms, the installation of piling under proposed subsurface footings, or the installation of sewer, gas and water pipes, or electrical or other service lines from the street.

Time extensions shall be granted only if a written request is submitted by the applicant, which sets forth sufficient and reasonable cause for the Township to approve such a request.

**802.8 Inspection and Revocation:**

- A. During the construction period, the Zoning Officer, Code Officer, or other authorized official shall inspect the premises to determine that the work is progressing in compliance with the information provided on the permit application and with all applicable Township, State or Federal laws and regulations. He shall make as many inspections during and upon completion of the work as are necessary.
- B. In the discharge of his duties, the Officer or official shall have the authority to enter any building, structure, premises or development in the identified floodplain area, upon presentation of proper credentials, at any reasonable hour to enforce the provisions of this Article.
- C. In the event the Officer or official discovers that the work does not comply with the permit application or any applicable laws and regulations, or that there has been a false statement or misrepresentation by any applicant, the Officer or official shall revoke the building permit and report such fact to the Township for whatever action it considers necessary.
- D. A record of all such inspections and violations of this Article shall be maintained.
- E. The requirements of the 34 PA Code Chapter 401-405 and the IBC (Sections 109.3.3, 1612.5.1, 104.7 and 103.8) and the 2003 IRC (R106.1.3, 109.1.3 and R104.7) or the equivalent sections of the currently approved version of the IBC or IRC thereof pertaining to elevation certificates and record retention shall be considered.

**802.9 Enforcement:** See Section 403 of Article 4.

**802.10 Appeals:** See Article 6.

**803 Identification of Floodplain Areas:** The identified floodplain area shall be any areas of the Township of Franklin, subject to the subject to the one hundred (100) year flood, which is identified as Zone A (Area of Special Flood Hazard\*) in the Flood Insurance Study (FIS) dated December 13, 1974, and the accompanying maps or the most recent revision thereof as issued by the Federal Emergency Management Agency. Including all digital data developed as part of the Flood Insurance Study.

*\*Check with maps.*

**803.1 Determination of Floodplain Areas:** For the purposes of this Article, the one hundred-(100) year flood elevation shall be used as the basis for regulation. When available, information from other Federal, State, and other acceptable sources shall be used to determine the one hundred- (100) year elevation, as well as a floodway area, if possible. When no other information is available, the one hundred- (100) year elevation shall be determined by using a point on the boundary of the identified floodplain area which is nearest the construction site in question.

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.

**803.2 Changes in Identification of Area:** The identified floodplain area may be revised or modified by the Board of Township Supervisors where studies or information provided by a qualified agency or person documents the need for such revision. However, **prior to any such change, approval must be obtained from the Federal Emergency Management Agency.**

**803.3 Boundary Disputes:** Should a dispute concerning any identified floodplain boundary arise, an initial determination shall be made by the Township Planning Commission and any party aggrieved by this decision may appeal to the Board of Supervisors or the Zoning Hearing Board [see MPC 909.1(4)]. The burden of proof shall be on the appellant.

#### **Section 804 General Technical Requirements:**

- A. In the identified floodplain area, the development and/or use of any land shall be permitted provided that the development and/or use complies with the restrictions and requirements of this and all other applicable codes and ordinances in force in the Township.
- B. Within any floodway area, no new construction or development shall be permitted that would cause any increase in the one hundred- (100) year flood elevation.
- C. Within any identified floodplain area, no new construction or development shall be located within the riparian area (typically but no less than fifty (50) feet landward from the top-of-bank of any watercourse), unless a permit is obtained from the Department of Environmental Protection Regional Office or the Erie County Conservation District.
- D. Within any identified floodplain area, any new construction or substantial improvement of a residential structure shall have the lowest floor (including basement) elevated up to, or above the regulatory flood elevation. The design and construction standards and specifications contained in the 2003 IBC (Sec. 1612.4, 1603.1.6 and 3403.1) and in the 2003 IRC (Sec. R323.1.4, R323.2.1, and R323.2.2) and ASCE 24 (Sec. 2.4 and 2.5, Chap. 5) and 34 PA Code (Chapters 401-405 as amended), or the equivalent sections of the currently approved version of the IBC, IRC or Codes shall be utilized.
- E. Within any identified floodplain area, any new construction or substantial improvement of a non-residential structure shall have the lowest floor (including basement) elevated up to, or above, the regulatory flood elevation, or be designed and constructed so that the space enclosed by such structure shall remain either completely or essentially dry during any flood up to that height.

Any non-residential structure, or part thereof, having a lowest floor (including basement) which is not elevated to at least one-and-one-half (1½) feet above the one hundred (100) year flood elevation, shall be floodproofed in a completely or essentially dry manner in accordance with the W1 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.

The design and construction standards and specifications contained in the IBC (Sec. 1603.1.2, 1603.1.6, 1605.2.2, 1606.5, 1612.5.1 and 3403.1. and ASCE 24 (Sec. 2.4 Chap. 7) and 34 PA Code (Chapters 401-405 as amended), or the equivalent sections of the currently approved version of the IBC, IRC or Code shall be utilized.

- F. Fully enclosed space below the lowest floor (including basement) is prohibited.
- G. Partially enclosed space below the lowest floor (including basement) which will be used solely for the parking of a vehicle, building access, or incidental storage in an area other than a basement, shall be designed and constructed to allow for the automatic entry and exit of floodwaters for the purpose of equalizing hydrostatic forces on exterior walls. The term "partially enclosed space", also includes crawl spaces.

Designs for meeting this requirement must either be certified by a registered professional engineer or architect, or meet or exceed the following minimum criteria:

1. A minimum of two openings having a net total area of not less than one (1) square inch for every square foot of enclosed space.
  2. The bottom of all openings shall be no higher than one (1) foot above grade.
  3. Openings may be equipped with screens, louvers, etc. or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
- H. Consideration may be given to the requirements of 34 PA Code (Chapters 401-405 as amended) and the 2003 IRC (Secs.R323.2.2 and R323.1.4) and the 2003 IBC (Secs. 1612.4, 1612.5, 1202.3.2 and 1203.3.3, or the equivalent sections of the currently approved version of the IBC, IRC or Code.
  - I. Accessory Structures: Structures accessory to a principal building need not be elevated or floodproofed to remain dry, but shall comply, at a minimum, with the following requirements:
    1. The structure shall not be designed or used for human habitation, but shall be limited to the parking of vehicles, or to the storage of tools, material, and equipment related to the principal use or activity.
    2. Floor area shall not exceed six hundred (600) square feet.
    3. The structure will have a low damage potential.
    4. The structure will be located on the site so as to cause the least obstruction to the flow of floodwaters.
    5. Power lines, wiring, and outlets will be at least one and one-half (1½) feet above the one hundred (100) year flood elevation.
    6. Permanently affixed utility equipment and appliances such as furnaces, heaters, washers, dryers, etc. are prohibited.
    7. Sanitary facilities are prohibited.
    8. The structure shall be adequately anchored to prevent flotation or movement and shall be designed to automatically provide for the entry and exit of floodwaters for the purpose of

equalizing hydrostatic forces on the walls. Designs for meeting this requirement must either be certified by a registered professional engineer or architect, or meet or exceed the following minimum criteria:

- a. Minimum of two (2) openings having a net total area of not less than one (1) square inch for every square foot of enclosed space.
- b. The bottom of all openings shall be no higher than one (1) foot above grade.
- c. Openings may be equipped with screens, louvers, etc. or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

**804.1 Design and Construction Standards:** The following minimum standards shall apply for all construction and development proposed within any identified floodplain area:

A. Fill: If fill is used, it shall:

1. Extend laterally at least fifteen (15) feet beyond the building line from all points;
2. Consist of soil or small rock materials only – Sanitary landfills shall not be permitted;
3. Be compacted to provide the necessary permeability and resistance to erosion, scouring, or settling;
4. Be no steeper than one (1) vertical to two (2) horizontal, feet unless substantiated data, justifying steeper slopes are submitted to, and approved by the Zoning and Code Officer; and,
5. Be used to the extent to which it does not adversely affect adjacent properties.

B. **Drainage Facilities:** Storm drainage facilities shall be designed to convey the flow of stormwater runoff in a safe and efficient manner. The system shall insure proper drainage along streets, and provide positive drainage away from buildings. The system shall also be designed to prevent the discharge of excess runoff onto adjacent properties.

C. **Water and Sanitary Sewer Facilities and Systems:**

1. All new or replacement water and sanitary sewer facilities and systems shall be located, designed and constructed to minimize or eliminate flood damages and the infiltration of flood waters.
2. Sanitary sewer facilities and systems shall be designed to prevent the discharge of untreated sewage into flood waters.
3. No part of any on-site sewage system shall be located within any identified floodplain area except in strict compliance with all state, county, and local regulations for such systems. If any such system is permitted, it shall be located so as to avoid impairment to it, or contamination from it, during a flood.
4. The design and construction provisions of the UCC and 34 PA Code (Chapters 401-405 as amended) and contained in the 2003 IBC (Appendix G. Secs. 401.3 and 401.4), the 2003 IRC (Sec. 323.1.6), the ASCE 24-98 (Sec. 8.3), FEMA #348, Protecting Building Utilities From Flood Damages and The International Private Sewage Disposal Code

(Chapter 3), or the equivalent sections of the currently approved version of the IBC or IRC or Code shall be utilized.

- D. **Other Utilities:** All other utilities such as gas lines, electrical and telephone systems shall be located, elevated (where possible) and constructed to minimize the chance of impairment during a flood.
- E. **Streets:** The finished elevation of all new streets shall be no more than one (1) foot below the Regulatory Flood Elevation.
- F. **Storage:** All materials that are buoyant, flammable, explosive or, in times of flooding, could be injurious to human, animal, or plant life, and not listed in Section 804.3, Development Which May Endanger Human Life, shall be stored at or above the Regulatory Flood Elevation and/or floodproofed to the maximum extent possible.
- G. **Placement of Buildings and Structures:** All buildings and structures shall be designed, located, and constructed so as to offer the minimum obstruction to the flow of water and shall be designed to have a minimum effect upon the flow and height of flood water.
- H. **Anchoring:**
  - 1. All buildings and structures shall be firmly anchored in accordance with accepted engineering practices to prevent flotation, collapse, or lateral movement.
  - 2. All air ducts, large pipes, storage tanks, and other similar objects or components located below the Regulatory Flood Elevation shall be securely anchored or affixed to prevent flotation.
  - 3. The design and construction requirements of the UCC pertaining to this subsection as referred to in 34 PA Code (Chapters 401-405 as amended) and contained in the 2003 IBC (Secs. 1605.2.2, 1605.3.1.2, 1612.4 and Appendix G501.3), the IRC (Secs. R301.1 and R323.1.1) and ASCE 24-98 (Sec. 5.6) , or the equivalent sections of the currently approved version of the IBC, IRC or Code shall be utilized.
- I. **Floors, Walls and Ceilings:**
  - 1. Wood flooring used at or below the Regulatory Flood Elevation shall be installed to accommodate a lateral expansion of the flooring, perpendicular to the flooring grain without causing structural damage to the building.
  - 2. Plywood used at or below the Regulatory Flood Elevation shall be of a “marine” or “water-resistant” variety.
  - 3. Walls and ceilings at or below the Regulatory Flood Elevation shall be designed and constructed of materials that are “water-resistant” and will withstand inundation.
  - 4. Windows, doors, and other components at or below the Regulatory Flood Elevation shall be made of metal or other “water-resistant” material.
  - 5. The provisions of the UCC pertaining to this subsection and referenced in the 34 PA Code (Chapters 401-405 as amended) and contained in the 2003 IBC (Secs. 801.1.3, 1403.2, 1403.4, 1403.6 and 1404.2), the 2003 IRC (Secs. R323.1.7 and R501.3) and

ASCE 24-98 (Chapter 6), or the equivalent sections of the currently approved version of the IBC, IRC or Code shall be utilized..

J. Paints and Adhesives:

1. Paints and other finishes used at or below the Regulatory Flood Elevation shall be of “marine” or “water-resistant” quality.
2. Adhesives used at or below the Regulatory Flood Elevation shall be of a “marine” or “water-resistant” variety.
3. All wooden components (doors, trim, cabinets, etc.) shall be finished with a “marine” or “water-resistant” paint or other finishing material.
4. The standards and specifications contained in 34 PA Code (Chapters 401-405, as amended) the 2003 IBC (Secs. 801.1.3, 1403.7 and Appendix G) and the 2003 IRC (Secs. R323.1.7, or the equivalent sections of the currently approved version of the IBC, IRC or Code shall be utilized.

K. Electrical Components:

1. Electrical distribution panels shall be at least three (3) feet above the one hundred (100) year flood elevation.
2. Separate electrical circuits shall serve lower levels and shall be dropped from above.
3. The provisions pertaining to the above provisions and referenced in the UCC and 34 PA Code (Chapters 401-405) as amended and contained in the 2003 IBC (Sec. 1612.4), the IRC (Sec. R323.1.5), the 2000 IFGC (Secs. R301.5 and R1601.3.8) and ASCE 24 (Chapter 8), or the equivalent sections of the currently approved version of the IBC, IRC or Code shall be utilized.

L. Equipment: Water heaters, furnaces, air conditioning and ventilating units, and other mechanical or utility equipment or apparatus shall not be located below the Regulatory Flood Elevation.

The provisions pertaining to the above provision and referenced in the UCC and 34 PA Code (Chapters 401-405), as amended and contained in the 2003 IBC (Sec. 1612.4), the 2003 IRC (Secs. R323.1.5) the 2000 IFGC (Secs. R301.5 and R1601.3.8) and ASCE 24 (Chapter 8) , or the equivalent sections of the currently approved version of the IBC, IRC or Code shall be utilized.

M. 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.

**804.2 Uniform Construction Code Coordination:** The standards and specifications contained 34 PA Code (Chapters 401-405), as amended and not limited to the following provisions shall apply to the above and other sections and sub-sections of this Ordinance, to the extent that they are more restrictive and/or supplement the requirements of this Article.

International Building Code (IBC) 2003 or the latest edition thereof:

Secs. 801, 1202, 1403, 1603, 1605, 1612, 3402, and Appendix G.

International Residential Building Code (IRC) 2003 or the latest edition thereof:

Secs. R104, R105, R109, R323, Appendix AE101, Appendix E and Appendix J.

### **804.3 Development Which May Endanger Human Life:**

A. 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:

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

1. Acetone
2. Ammonia
3. Benzene
4. Calcium carbide
5. Carbon disulfide
6. Celluloid
7. Chlorine
8. Hydrochloric acid
9. Hydrocyanic acid
10. Magnesium
11. Nitric acid and oxides of nitrogen
12. Petroleum products (gasoline, fuel oil, etc.)
13. Phosphorus
14. Potassium
15. Sodium
16. Sulphur and sulphur products
17. Pesticides (including insecticides, fungicides, and rodenticides)
18. Radioactive substances, insofar as such substances are not otherwise regulated.

B. Within any identified floodplain area, any new or substantially improved structure of the kind described in Subsection A., above, shall be prohibited within the riparian area (typically but no less than fifty (50) feet landward from the top-of-bank of any watercourse).

C. Where permitted within any identified floodplain area, any new or substantially improved structure of the kind described in Subsection A., above, shall be:

1. Elevated or designed and constructed to remain completely dry up to at least one-and-one-half (1½) feet above the one hundred (100) year flood and,

2. Designed to prevent pollution from the structure or activity during the course of a one hundred (100) year flood.

Any such structure, or part thereof, that will be built below the Regulatory Flood Elevation shall be designed and constructed in accordance with the standards for completely dry floodproofing contained in the publication "Flood-Proofing Regulations" (U.S. Army Corps of Engineers, June 1972 as amended March 1992), or with some other equivalent watertight standard.

#### **804.4 Special Requirements for Manufactured Homes:**

- A. Within any identified floodplain area, all manufactured homes and any additions thereto shall be prohibited within the riparian area (typically but no less than fifty (50) feet landward from the top-of-bank of any watercourse),.
- B. Where permitted within any identified floodplain area, all manufactured homes, and any improvements thereto, shall be:
  1. Placed on a permanent foundation.
  2. Elevated so that the lowest floor of the manufactured home is one and one half (1½) feet or more above the elevation of the one hundred (100) year flood.
  3. Anchored to resist flotation, collapse, or lateral movement.
  4. Installation of manufactured homes shall be done in accordance with the manufacturers' installation instructions as provided by the manufacturer. Where the applicant cannot provide the above information, the requirements of Appendix E of the 2003 International Residential Building Code or the U.S. Department of Housing and Urban Development's Permanent Foundations for Manufactured Housing, 1984 Edition, draft or latest revision thereto shall apply and 34 PA Code Chapter 401-405.
  5. Consideration shall be given to the installation requirements of the 2003 IBC (Appendix G, Sec. 501.1-3) and the 2003 IRC (Sec. R323.2, R323.3, R102.7.1, and Appendix AE101, 604 and 605) or the most recent revisions thereto and 34 PA Code Chapter 401-405, as amended where appropriate and/or applicable to units where the manufacturers' standards for anchoring cannot be provided or were not established for the units(s) proposed installation.

**805 General Activities Requiring Special Permits:** 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 unless a Special Permit has been issued by the Township:

- A. The commencement of any of the following activities; or the construction, enlargement, or expansion of any structure used, or intended to be used, for any of the following activities:
  1. Hospitals
  2. Nursing homes
  3. Jails or prisons

- B. The commencement of, or any construction of, a new manufactured home park or manufactured home subdivision, or substantial improvement to an existing manufactured home park or manufactured home subdivision.

**805.1 Application Requirements for Special Permits:** Applicants for Special Permits shall provide five (5) copies of the following items:

- A. A written request including completed Zoning, Assessment and Building Permit Application forms.
- B. A small scale map showing the vicinity in which the proposed site is located.
- C. 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:
  - 1. North arrow, scale and date;
  - 2. Topography based upon the North American Vertical Datum of 1988, showing existing and proposed contours at intervals of two (2) feet;
  - 3. All property and lot lines including dimensions, and the size of the site expressed in acres or square feet;
  - 4. The location of all existing streets, drives, other accessways, and parking areas, with information concerning widths, pavement types and construction, and elevations;
  - 5. The location of any existing bodies of water or watercourses, buildings, structures and other public or private facilities, including railroad tracks and facilities, and any other natural and man made features affecting, or affected by, the proposed activity or development;
  - 6. The location of the floodplain boundary line, information and spot elevations concerning the one hundred (100) year flood elevations, and information concerning the flow of water including direction and velocities;
  - 7. The location of all proposed buildings, structures, utilities, and any other improvements; and
  - 8. Any other information which the Township considers necessary for adequate review of the application.
- D. Plans of all proposed buildings, structures and other improvements, clearly and legibly drawn at suitable scale showing the following:
  - 1. Sufficiently detailed architectural or engineering drawings, including floor plans, sections, and exterior building elevations, as appropriate;
  - 2. For any proposed building, the elevation of the lowest floor (including basement) and, as required, the elevation of any other floor;
  - 3. Complete information concerning flood depths, pressures, velocities, impact and uplift forces, and other factors associated with the one hundred- (100) year flood;

4. Detailed information concerning any proposed floodproofing measures;
5. Cross-section drawings for all proposed streets, drives, other accessways, and parking areas, showing all rights-of-way and pavement widths;
6. Profile drawings for all proposed streets, drives, and vehicular accessways including existing and proposed grades; and
7. Plans and profiles of all proposed sanitary and storm sewer systems, water supply systems, and any other utilities and facilities.

E. The following data and documentation:

1. Certification from the applicant that the site upon which the activity or development is proposed is an existing separate and single parcel, owned by the applicant or the client he represents;
2. Certification from a registered professional engineer, architect, or landscape architect that the proposed construction has been adequately designed to protect against damage from the one hundred- (100) year flood;
3. A statement, certified by a registered professional engineer, architect, landscape architect, or other qualified person which contains a complete and accurate description of the nature and extent of pollution that might possibly occur from the development during the course of a one hundred- (100) year flood, including a statement concerning the effects such pollution may have on human life;
4. A statement certified by a registered professional engineer, architect, or landscape architect, which contains a complete and accurate description of the effects the proposed development will have on one hundred- (100) year flood elevations and flows;
5. A statement, certified by a registered professional engineer, architect, or landscape architect, which contains a complete and accurate description of the kinds and amounts of any loose buoyant materials or debris that may possibly exist or be located on the site below the one hundred- (100) year flood elevation and the effects such materials and debris may have on one hundred (100) year flood elevations and flows;
6. The appropriate component of the Department of Environmental Protection “Planning Module for Land Development”;
7. 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;
8. Any other applicable permits such as, but not limited to, a permit for any activity regulated by the Department of Environmental Protections under Section 302 of Act 1978-166; and
9. An evacuation plan which fully explains the manner in which the site will be safely evacuated before or during the course of a one hundred- (100) year flood.

**805.2 Application Review Procedures:** Upon receipt of an application for a special permit by the Township the following procedures shall apply in addition to those of Article II:

- A. Within three (3) working days following receipt of the application, a complete copy of the application and all accompanying documentation shall be forwarded to the Erie County Department of Planning by registered or certified mail for its review and recommendations. Copies of the application shall also be forwarded to the Township Planning Commission and Township Engineer for review and comment.
- B. If an application is received that is incomplete, the Township shall notify the applicant, in writing, stating in what respect the application is deficient.
- C. If the Township decides to disapprove an application, it shall notify the applicant, in writing, of the reasons for the disapproval.
- D. If the Township approves an application, it shall file written notification, together with the application and all pertinent information, with the Department of Community and Economic Development, by registered or certified mail, within five (5) working days after the date of approval.
- E. Before issuing the Special Permit, the Township shall allow the Department of Community and Economic Development thirty (30) days, after receipt of the notification by the Department, to review the application and decision made by the Township.
- F. If the Township does not receive any communication from the Department of Community and Economic Development during the thirty- (30) day review period, it may issue a Special Permit to the applicant.
- G. If the Department of Community and Economic Development should decide to disapprove an application, it shall notify the Township and the applicant, in writing, of the reasons for the disapproval, and the Township shall not issue the Special Permit.

**805.3 Special Technical Requirements:**

- A. In addition to the requirements of Section 804 of this Article, the following minimum requirements shall also apply to any proposed development requiring a Special Permit. If there is any conflict between any of the following requirements and those in Section 804 of this Article or in any other code, ordinance, or regulation, the more restrictive provision shall apply.
- B. No application for a Special Permit shall be approved unless it can be determined that the structure or activity will be located, constructed and maintained in a manner which will:
  - 1. Fully protect the health and safety of the general public and any occupants of the structure.
 

At a minimum, all new structures shall be designed, located, and constructed so that:

    - a. The structure will survive inundation by waters of the one hundred (100) year flood without any lateral movement or damage to either the structure itself, or to any of its equipment or contents below the one hundred- (100) year flood elevation.
    - b. The elevation of the lowest floor (including basement) will be at least one-and-one-half (1½) feet above the one hundred- (100) year flood elevation.

- c. The occupants of the structure can remain inside for an indefinite period of time and be safely evacuated at any time during the one hundred- (100) year flood.
2. Prevent any significant possibility of pollution, increased flood levels or flows, or debris endangering life and property.

All 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 and the Department of Community and Economic Development.

**Section 806 Existing Structures in Identified Floodplain Areas:** The provisions of this Article do not require any changes or improvements to be made to lawfully existing structures. However, when an improvement is made to any existing structure, the provisions of Section 806 shall apply.

**806.1 Improvements:** The following provisions shall apply whenever any improvement is made to all existing structure located within any identified floodplain area:

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

The above activity shall also address the requirements of the 34 PA Code Chapters 401-405, as amended and the 2003 IBC (Sec. 3402.1 and 1612.4) and the 2003 IRC (Sec. R 323.1.4), or the equivalent sections of the currently approved version of the IBC, IRC or Code.

- C. Any modification, alteration, reconstruction, or improvement of any kind to an existing structure, to an extent or amount of less than fifty percent (50%) of its market value, shall be elevated and/or floodproofed to the greatest extent possible.
- D. Any modification, alteration, reconstruction, or improvement of any kind that meets the definition of “repetitive loss” shall be undertaken only in full compliance with the provisions of this Article.
- E. The requirements of 34 PA Code Chapter 401-405, as amended and the 2003 IRC (Secs. R102.7.1, R105.3.1, and Appendices E and J) or the latest revision thereof and the 2003 IBC (Secs. 101.3, 3403.1 and Appendix G) or the latest revision thereof shall also be utilized in conjunction with the provisions of this section.

**Section 807 Variances – General:** If compliance with any of the requirements of this Article would result in an exceptional hardship to a prospective builder, developer or landowner, the Township may, upon request, grant relief from the strict application of the requirements. (See Section 608)

**807.1 Variance Procedures and Conditions:** Requests for variances shall be considered by the Township in accordance with the procedures contained in Article 6 and the following:

- A. Except for a possible modification of the one and one-half (1½) foot freeboard requirement involved, no variance shall be granted for any of the other requirements pertaining specifically to

development regulated by Special Permit (805) or to Development Which May Endanger Human Life (Section 804.3).

- B. No variance shall be granted for any construction, development, use, or activity within any floodway area that would cause any increase in the one hundred- (100) year flood elevation.
- C. If granted, a variance shall involve only the least modification necessary to provide relief.
- D. In granting any variance, the Zoning Hearing Board shall attach whatever reasonable conditions and safeguards it considers necessary in order to protect the public health, safety, and welfare, and to achieve the objectives of this Article.
- E. Whenever a variance is granted, the Zoning Hearing Board shall notify the applicant, in writing, that:
  - 1. The granting of the variance may result in increased premium rates for flood insurance.
  - 2. Such variances may increase the risks to life and property.
- F. In reviewing any request for a variance, the Zoning Hearing Board shall consider, at a minimum, the following:
  - 1. That there is good and sufficient cause.
  - 2. That failure to grant the variance would result in exceptional hardship to the applicant.
  - 3. That the granting of the variance will: (a) neither result in an unacceptable or prohibited increase in flood heights, additional threats to public safety, or extraordinary public expense, (b) nor create nuisances, cause fraud on, or victimize the public, or conflict with any other applicable state or local ordinances and regulations.
- G. A complete record of all variance requests and related actions shall be maintained by the Township. In addition, a report of all variances granted during the year shall be included in the annual report to the Federal Emergency Management Agency.

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

**808 Definitions – General:** Unless specifically defined below, words and phrases used in this Article shall be interpreted so as to give this Article its most reasonable application.

**808.1 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.

**Basement:** Means 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.

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

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

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

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

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

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

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

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

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

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

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

- a. The improvement of one lot or two or more contiguous lots, tracts, or parcels of land for any purpose involving:
  1. A group of two or more residential or nonresidential buildings, whether proposed initially or cumulatively, or a single nonresidential building on a lot or lots

regardless of the number of occupants or tenure; or

2. The division or allocation of land or space, whether initially or cumulatively, between or among two or more existing or prospective occupants by means of, or for the purpose of streets, common areas, leaseholds, condominiums, building groups or other features.

- b. A subdivision of land.

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

**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 one hundred eighty (180) consecutive days.

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

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

**New Construction:** Structures for which the start of construction commenced on or after September 13, 1983, and includes any subsequent improvements thereto.

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

**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.

**Recreational Vehicle:** A vehicle which is (i) built on a single chassis; (ii) not more than four hundred (400) square feet, measured at the largest horizontal projections; (iii) designed to be self-propelled or permanently towable by a light-duty truck; (iv) not designed for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

**Regulatory Flood Elevation:** The one hundred- (100) year flood elevation plus a freeboard safety factor of one-and-one-half (1½) feet.

**Repetitive Loss:** Flood-related damages sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on average, equals or exceeds twenty-five percent (25%) of the market value of the structure before the damages occurred.

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

**Structure:** Anything constructed or erected on the ground or attached to the ground including, but not limited to buildings, billboards, signs, sheds, manufactured homes, and other similar items.

**Subdivision:** The division or re-division of a lot, tract, or parcel of land by any means into two or more lots, tracts, parcels or other divisions of land including changes in existing lot lines for the purpose, whether immediate or future, of lease, partition by the court for distribution to heirs, or devisees, transfer of ownership or building or lot development: Provided, however, that the subdivision by lease of land for agricultural purposes into parcels of more than ten (10) acres, not involving any new street or easement of access or any residential dwelling, shall be exempted.

**Substantial Additions to Manufactured Home Parks:** Any repair, reconstruction, or improvement of an existing manufactured home park or manufactured home subdivision, where such repair, reconstruction, or improvement of the streets, utilities, and pads will equal or exceed fifty percent (50%) of the value of the streets, utilities, and pads before the repair, reconstruction, or improvement is started.

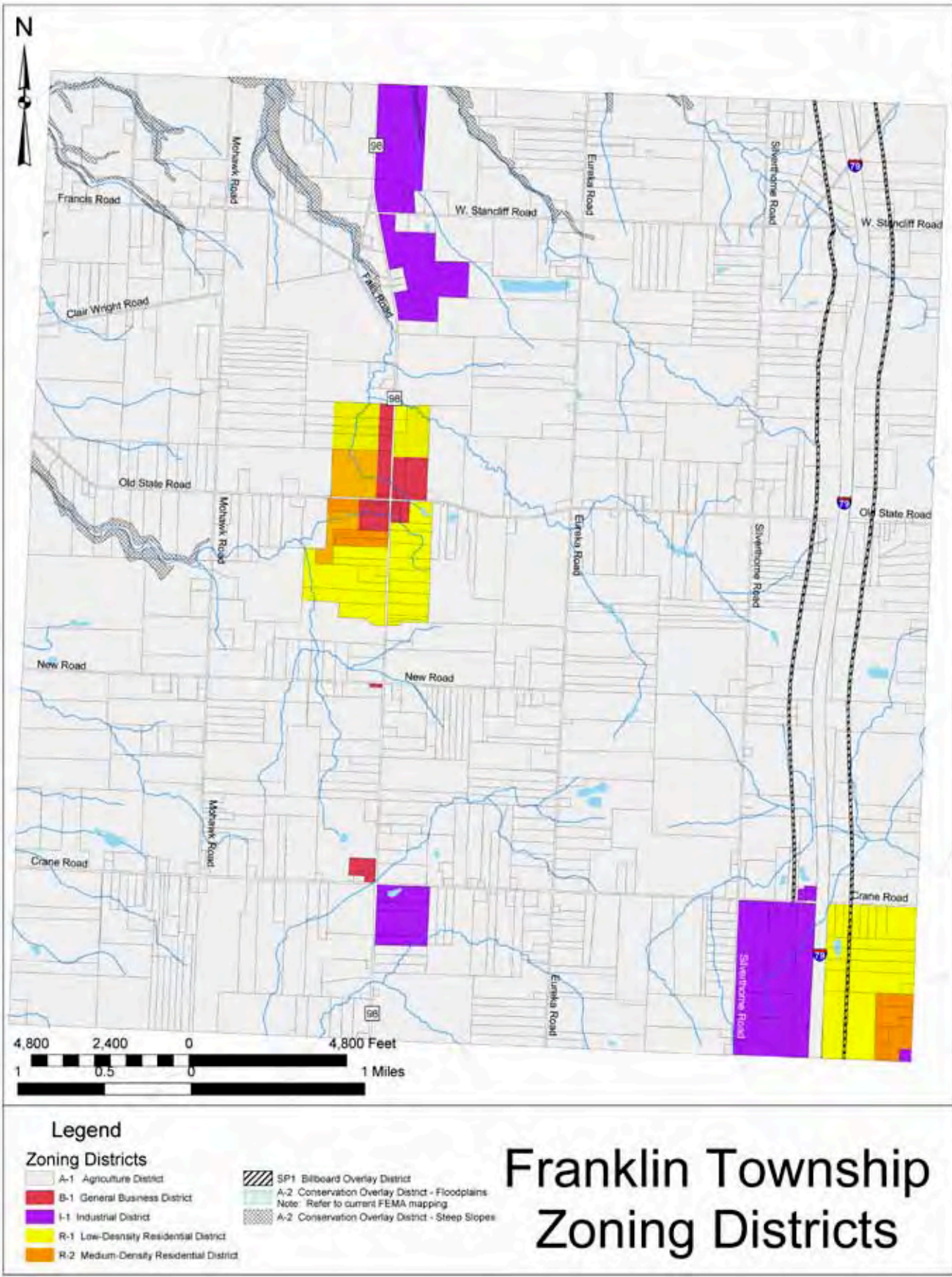
**Substantial Damage:** Damage from any cause sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed fifty percent (50%) or more of the market value of the structure before the damage occurred.

**Substantial Improvement:** Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure before the “start of construction” of the improvement. This term includes structures which have incurred “substantial damage” [or “repetitive loss” when repetitive loss language (*Subsection 806.D.*) is used] regardless of the actual repair work performed. The term does not, however, include either:

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

**Uniform Construction Code:** The Statewide building code adopted by the Pennsylvania General Assembly in 1999, applicable to new construction in all municipalities whether administered by the municipality, a third party, or the Department of Labor and Industry. Applicable to Residential and Commercial buildings, the Code adopted the International Residential Code (IRC) and International Building Code (IBC) of 2003 by reference as the construction standard applicable with the Commonwealth floodplain construction. For coordination purposes, references to the above are made specifically to various sections of the IRC and the IBC.

**809 Steep Slope:** Any construction on steep slopes (over 24%) shall be accompanied by engineering specifications that are acceptable to the Township Engineer.



# Franklin Township Zoning Districts

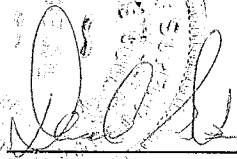
APPROVAL PAGE  
FRANKLIN TOWNSHIP ORDINANCE NO. 1 OF 2010

FRANKLIN TOWNSHIP  
BOARD OF SUPERVISORS


  
JOHN J. SACHAR  
Chairman

  
GARY L. TRUITT  
Vice-Chairman

  
DAVID G. HENDERSON  
Supervisor

Attest:  
  
DAVID G HENDERSON  
Secretary

I hereby certify that the foregoing Ordinance was advertised in the Albion News on the 13<sup>th</sup> and 20<sup>th</sup> days of January, 2010, a newspaper of general circulation in the municipality and was duly enacted and approved as set forth at the regular meeting of the Franklin Township Board of Supervisors held on the 27<sup>th</sup> day of January, 2010.

  
DAVID G HENDERSON  
Secretary