

ZONING ORDINANCE

WHARTON TOWNSHIP
FAYETTE COUNTY, PENNSYLVANIA

ORDINANCE NUMBER ONE OF 2002

Recodifying, amending, and repealing in part

ORDINANCE NUMBER THREE OF 1981

Effective July 25, 1981

and

ORDINANCE NUMBER ONE OF 1974

Effective March 1, 1974.

Enacted January 7, 2002

by

THE SUPERVISORS OF WHARTON TOWNSHIP

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ORDINANCE NO. 1 OF 2002

WHARTON TOWNSHIP ZONING ORDINANCE

ORDAINING CLAUSE

BE IT HEREBY ORDAINED AND ENACTED by the Board of Supervisors of the Township of Wharton, County of Fayette by authority of and pursuant to the Provisions of the Pennsylvania, Municipalities Planning Code. Act of July 31, 1968, P.L. 805, as Amended as follows:

ARTICLE I - GENERAL PROVISIONS

101 TITLE

AN ORDINANCE PERMITTING, PROHIBITING, REGULATING, RESTRICTING, AND DETERMINING THE USES OF LAND, WATERCOURSES, AND OTHER BODIES OF WATER; THE SIZE, HEIGHT, BULK, LOCATION, ERECTION, CONSTRUCTION, ALTERATION, AND USE OF STRUCTURES; THE AREAS AND DIMENSIONS OF LAND TO BE OCCUPIED BY USES AND STRUCTURES; THE DENSITY OF POPULATION AND INTENSITY OF USE; THE LOCATION AND SIZE OF SIGNS; CREATING ZONING DISTRICTS AND ESTABLISHING THE BOUNDARIES THEREOF; REESTABLISHING THE OFFICE OF ZONING OFFICER; REESTABLISHING A ZONING HEARING BOARD; AND PROVIDING FOR THE ADMINISTRATION, AMENDMENT, AND ENFORCEMENT OF THE ORDINANCE, INCLUDING THE IMPOSITION OF PENALTIES.

102 SHORT TITLE

This Ordinance shall be known and may be cited as the Wharton Township Zoning Ordinance.

103 PURPOSE (See also Article ///.)

This Zoning Ordinance has been prepared in accordance with the Multi-Municipal Comprehensive Plan, with consideration for the character of the municipality, its various geographic parts, and the suitability of the various parts for particular uses and structures, and is enacted for the following purposes:

- 103.a** To promote, protect, and facilitate any or all of the following: the public health, safety, morals, and the general welfare: coordinated and practical community development and proper density of population; emergency management preparedness and operations, airports, and national defense facilities, the provision of adequate light and air, access to incident solar energy, police protection, vehicle parking and loading space, transportation, water, sewerage, schools, recreational facilities, public grounds, the provision of a safe reliable, and adequate water supply for domestic, commercial, agricultural, or industrial use, and other public requirements; as well as preservation of the natural, scenic, and historic values in the environment, and preservation of forests, wetlands, aquifers, and flood plains.
- 103.b** To prevent one or more of the following: overcrowding of land, danger and congestion in travel and transportation, loss of health, life, or property from fire, flood, panic, or other dangers.
- 103.c** To preserve prime agriculture and farmland, considering topography, soil type and classification, and present use.
- 103.d** To provide for the use of land within the municipality for residential housing of various dwelling types encompassing all basic forms of housing, including single-family and two- family dwellings, and a reasonable range of multifamily dwellings in various arrangements, mobile homes, and mobile home parks.
- 103.e** To accommodate reasonable overall community growth, including population and employment growth, and opportunities for development of a variety of residential dwelling types and nonresidential uses.
- 103.f** Seeks to maintain the rural character of the community while improving accessibility and providing appropriate development opportunities.

104 INTERPRETATION

In interpreting and applying the provisions of this Ordinance, they shall be held to be the minimum requirements for the health, safety, morals and the general welfare of the Township and its citizens. It is not intended by this Ordinance to interfere with or abrogate or annul any rules or regulations previously adopted or permits previously issued by the Township which are in conflict with any provisions of this Ordinance, nor is it intended by this Ordinance to interfere with or abrogate or annul any easements, covenants, building restrictions, or other agreements between parties; providing, however, that where this Ordinance imposes a greater restriction than is imposed or required by such ordinance, rules, regulations, or permits, or by easements, covenants, building restrictions, or agreements, the provisions of this Ordinance shall control.

105 USES NOT PROVIDED FOR

Any use which is not specifically authorized as a permitted use, special exception use or conditional use in any District under this Ordinance shall be deemed a special exception use in the B-2 Manufacturing District. Whenever application for such use is made the Zoning Officer shall refer a copy of the application to the Board of Supervisors for their information, and so that they may consider whether an amendment of this Ordinance is necessary or appropriate.

106 STATEMENT OF COMMUNITY DEVELOPMENT OBJECTIVES

The *Statement of Community Development Objectives* is hereby supplied by reference to the Multi Municipal Comprehensive Plan under the section entitled "Statement of Purposes, Goals, and Objectives,"

ARTICLE II - GLOSSARY OF ZONING TERMS

201 APPLICATION AND INTERPRETATION

It is not intended that this Glossary include all words used or referred to in this Ordinance. The words are included in order to facilitate the interpretation of the Ordinance for administrative purposes and for the carrying out of duties by appropriate officers and by the Zoning Hearing Board.

Unless otherwise expressly stated the following shall, for the purposes of this ordinance have the meaning herein indicated.

- a. Words used in the present tense include the future tense.
- b. The word "person" includes a profit or nonprofit corporation, company, partnership, or individual.
- c. The words "used" or "occupied," as applied to any land or building, include the words "intended," "arranged," or "designed" to be used or occupied.
- d. The word "lot" includes plot or parcel.
- e. The word "shall" is always mandatory.

202 DEFINITION OF TERMS

accessory use or structure - a use or structure (such as an automobile garage on a residential lot) incidental to the main use of the land or building. In buildings restricted to residence use, the office of a professional man, customary family occupations, and workshops not conducted for compensation shall be deemed **accessory uses**. A roadside stand for sale of farm products conducted solely by the farm operator on his property shall be considered an **accessory use**.

adjoining land merger subdivision – those subdivisions which divide a single lot, tract or parcel of land into two or more lots, tracts or parcels of land for the purpose of enlarging or merging with an abutting parcel of land. These subdivisions do not plan, propose, or require by law or ordinance any construction, erection, extension, improvement or alteration of any public or private street, water line, sewer line, storm drainage line, watercourse or public work, public facilities or public service.

adult-oriented establishment - any use that is defined as such in 68 Pa. C.S.A. §5502, as amended from time to time, and also including an adult bookstore which does not have facilities for adult entertainment for observation by patrons.

agriculture - any agricultural use, including farming, dairying, pasturage, agriculture, horticulture, floriculture, viticulture, and animal and poultry husbandry.

airstrip - an area set aside for use by flying machines, i.e. airplanes and helicopters including minimal servicing.

alley or service drive - a minor right-of-way, privately or publicly owned, primarily for service access to the back or sides of property.

area, building - the total of area taken on a horizontal plane at the main grade level of the principal building and all accessory buildings, exclusive of uncovered porches, terraces and steps.

area, lot - the total area within the lot lines.

automotive maintenance - lubrication of automobiles and replacement or installation of minor parts and accessories, but not including major repair work, such as motor replacement, body and fender repair, or paint spraying.

automotive repair - the repair, rebuilding, or reconditioning of motor vehicles or parts thereof, including collision service, painting, and steam cleaning of vehicles.

automotive sales - the sale or rental of new or used a motor vehicles or trailers including automotive maintenance and repair.

Board; Zoning Hearing Board - the Wharton Township Zoning Hearing Board.

building, principal - a structure enclosed within exterior walls or fire walls; built, erected, and framed of component structural parts; designed for the housing, shelter, enclosure, and support of individuals, animals, or property of any kind; the main structure on a given lot.

Building, front line of -the line of that face of the building nearest the front line of the lot. This face includes sun parlors and covered porches, whether enclosed or unenclosed, but does not include steps.

building, height of - the vertical distance measured from the lowest elevation of the proposed finished grade of the building to the highest point of the roof. Chimneys, spires, towers and elevator penthouses, tanks, and other similar projections, shall not be included in calculating the height.

building, setback line - the line of a structure or building existing at the effective date of this Ordinance or the legally established line which determines the location of a future building or structure or portion thereof with respect to any lot line or street right-of-way line.

campground-a land development consisting of campsites which must have a minimum area of two thousand (2000) square feet each, and which must comply with all state regulations, upon which camping units may be occupied for periods not to exceed two consecutive weeks, and which camping units do not remain in place through the winter months (December through February). Permitted only by *special exception* in an A-1 district.

cartway - that portion of streets paved or otherwise improved, and designed and intended primarily for vehicular travel.

cellar - a story having more than one-half of its clear height below the average level of the adjoining ground. A cellar shall not be considered a story for purposes of height measurement, or in determining the permissible number of stories or in computing floor area.

clinic - an establishment where patients who are not lodged overnight are admitted for examination and treatment by two or more professionals.

club - a building or portion thereof or premises owned or operated by a corporation, association, person, or persons, for a social, educational, or recreational purpose, but not primarily for profit or to render a service which is customarily carried out as a business.

communal life use-a use permitted by special exception on contiguous parcels located in A-1 and/or B-1 and/or R-2 districts, which said contiguous parcels are owned by one legal entity and aggregate no less than two hundred (200) acres developed in accordance with a common plan and including some or all of the following uses: all permitted A-1 uses; all special exception A-1 uses; all permitted R-2 uses; subject to the area and density limitations contained in Section 503.e; and restricted manufacturing. After the necessary acreage is designated for *communal life use* by the owner, one or more petitions for *special exception* may be filed for any use or uses not otherwise permitted. Upon grant of such *special exception* the Zoning Hearing Board shall issue a permit specifying the conditions that shall apply to such uses. After the necessary acreage is designated for *communal life use* and any such *special exception* is granted, no portion of such designated acreage shall be subdivided for separate conveyance unless all parcels resulting therefrom will be in compliance with all the provisions of this Ordinance.

Common open space – A parcel or parcels of land or an area of water or a combination of land and water within a development site and designed and intended for the use or enjoyment of residents of the development. It does not include streets, off-street parking areas, private yard space and areas set aside for public facilities. Common open space shall be substantially free of structures but may contain such improvements as are in the development plan as finally approved by the Board of Supervisors and as are appropriate for recreational use by the residents.

Commission; Planning Commission - the Wharton Township Planning Commission.

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 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 of 300 square feet or less.

Communications Tower - A structure other than a building, such as a monopole, self-supporting or guyed tower, designed and used to support Communications Antennas. The height of a Communication Tower is the vertical distance measured from the ground level to the highest point on a Communications Tower, including antennas mounted on the tower.

Comprehensive Plan - a Comprehensive Plan (or Community Development Plan) consisting of maps, charts, and textual matter, which indicates the recommendations of the Planning Commission for the continuing development of the municipality. The Comprehensive Plan includes, but is not limited to, the following related basic elements: a statement of objectives; a plan for land use; a plan for the movement of people and goods; a plan for community facilities and utilities; and a map or statement indicating the relationship of the municipality and its proposed development to the adjacent municipalities, and areas.

conditional use - a use which is not appropriate to a particular zoning district as a whole, but which may be suitable in certain localities of the district only when specific conditions and factors are present. Conditional uses are allowed or denied by the Supervisors after recommendation by the Planning Commission, and may be granted subject to requirements and limitations specified by the Supervisors.

construction - the construction, reconstruction, renovation, repair, extension, alteration, or relocation of a building or structure, including the placement of mobile homes.

coverage - that portion or percentage of the plot or lot area covered by the building or structure

density - a measure of the number of dwelling units which occupy or may occupy an area of land.

density factors - numerical values applied to residential dwelling unit types for the purpose of computing permitted densities.

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

driveway - a privately owned vehicular access way from a street to properties abutting the street and serving no more than two dwelling units.

dwelling - a building or structure which is wholly or partly used or intended to be used for living and sleeping by human occupants for a planned period of time. The term "dwelling" as used herein shall include rooming houses and multifamily dwellings as well as single family dwellings, unless otherwise indicated.

dwelling types:

single family detached - a dwelling unit accommodating a single family and having two (2) side yards.

single family, semidetached - Two dwelling units accommodating families which are attached side by side through the use of a party wall, and having one side yard adjacent to each dwelling unit.

two family detached - two dwelling units accommodating two (2) families which are located one over the other, and having two (2) side yards.

two family semidetached - four dwelling units accommodating four (4) families, two units of which are located directly over the other two units. A combination of both the single family semidetached and the two family detached structures.

garden apartment - three or more dwelling units accommodating three or more families which are located one over the other and which, when more than three units are utilized, are attached side by side through the use of common party walls, and which shall have side yards adjacent to each first story end unit. Single family dwelling units are generally built to a height of only two (2) stories. Each dwelling unit is accessible by a common stairwell.

apartment house - a structure consisting of a series of single story dwelling units (two story units may conceivably be used in certain instances) clustered on a floor about a central elevator shaft or central corridor, each series, consisting of one story, being stacked one upon the other to a specified maximum height.

dwelling unit - any room or group of rooms located within a dwelling and forming a single habitable unit with facilities which are used or intended to be used for living, sleeping, cooking, and eating.

Dwelling units, conversion-a single family dwelling converted into two (2) or more family dwelling units, i.e., single family semi-detached, two family detached, and two family semi-detached. This use is permitted by right in R-2 Residential, Multifamily dwellings district. This use shall be permitted as a special exception use in the Agricultural-Rural (A-1) district, subject to the following requirements:

- (a) the use is similar in character as the surrounding properties, and does not create a greater burden than any other permitted use in the Agricultural-Rural (A-1) District;
- (b) the sewage facilities satisfy State and Local laws and regulations;
- (c) the water supply satisfies state and local laws and regulations;
- (d) the landowner and occupant(s) follow a refuse disposal plan;
- (e) the conversion satisfies the applicable building code laws and regulations,
- (f) the conversion satisfies the Township Subdivision and Land Development Ordinance;
- (g) the length of time inhabitants occupy the premises shall be limited to seasonal period of time, not less than three (3) months;

And this use may be subject to the following conditions:

- (a) Buffers, see *buffer plantings*, Article VI, §613.d.;
- (b) Increased setbacks;
- (c) Constructed suitable rear access;
- (d) Direct Access to local, collector or arterial road;
- (e) Photometric plans, which may limit the number of candle-feet of light at the lot line;
- (f) Parking plan under Article VII of this Ordinance, but not less than 1 space per unit;
- (g) Registration of inhabitants and person in-charge of the premises;
- (h) Limited number of habitants in a dwelling unit;
- (i) Limited number of dwelling units within a dwelling; and
- (j) Any other conditions the Zoning Hearing Board deems appropriate under the circumstances.

essential services - services reasonably necessary for the public health or safety or general welfare, and supplied by public utilities or municipal or other government agencies, including: the transmission and distribution of electrical power, gas, steam, or water; communications, including telephone systems; fire and police protection; and the collection and disposal of sewage and other waste materials; and the installation, erection, construction, alteration, or maintenance of underground or overhead systems, and equipment and accessories in connection therewith, including poles, wires, mains, drains, sewers, pipes, conduit cables, fire alarm boxes, hydrants, and police call boxes; but not including buildings; essential services are divided into two categories: (1) those providing local *distribution* within the Township or immediately adjacent properties; and (2) those providing for *non-local transmission*. *Essential services do not* include towers or antennas for cellular telephone service.

family – One or more related persons occupying a dwelling and living as a single housekeeping unit and doing their own cooking on the premises.

flood plain - identified flood plain area or district - those flood plain areas specifically designated as being inundated by a one hundred (100) year flood.

flood, one hundred (100) year - a flood that, on the average is likely to occur once every one hundred (100) years (i.e. that has a one percent (1%) chance of occurring each year, although the flood may occur in any year).

floor area retail, net - all that space regulated to use by the customer and the retail employee to consummate retail sales; and to include display area used to indicate the variety of goods available for the customer; but not to include office space, storage space, and other general administrative areas.

forestry - the growing and care of trees for commercial purposes, including the cutting and marketing of timber, and reforestation.

food processing - the preparation of food products for retail sale on the premises.

highway commercial - a commercial establishment which provides an outlet for goods and services, oriented toward the motorist and service traffic utilizing the major highways of the area, including individual self-storage ("mini-storage") garages.

home occupation - any use customarily conducted within a dwelling or in a building accessory thereto and carried on by the inhabitants residing therein, providing that the use is clearly incidental and secondary to the use of the dwelling for dwelling purposes, no more than twenty-five percent (25%) of the building floor area is used, the exterior appearance of the structure or premises is constructed and maintained as a residential dwelling, and no goods are publicly displayed outside the premises other than signs as provided herein. If the activity is carried on without signs and with absolutely no effects outside the dwelling, it need not be registered as a *home occupation*, and no permit is required.

junk storage and/or sales (salvage operation) - any lot, land, or structure, or part thereof, used primarily for the collection, storage, and/or sale of waste paper, rags, scrap metal, or discarded material, or for the collecting, dismantling, storage, and salvaging of machinery or vehicles not in operating condition, and for the sale of parts thereof.

limited local business use - a nonindustrial commercial special exception use in an A-1 zone, subject to the requirements:

- (a) that it not exceed 2500 square feet of interior floor space;
- (b) that it involves a retail trade, a clinic, personal service, tourism, or business, professional, or financial services, and is located on a nondivisible parcel of land of at least one acre; or that it involves a "bed-and-breakfast" with five or fewer guest rooms, an automotive maintenance facility, a sales lot for five or fewer units, or other reasonably similar use and is located on a nondivisible parcel of land of at least five (5) acres; and
- (c) that it does not create a burden or nuisance on surrounding properties substantially exceeding the burden or nuisance any permitted agricultural use would create.
- (d) The Zoning Hearing Board is specifically authorized to limit hours of operation, to limit the outside area used for parking, to limit *the* inside or outside areas used for the display of goods, to limit the areas used for any other purpose, to impose any setback, screening or other requirement reasonably necessary to prevent the imposition of a nuisance upon, or preserve the character of, nearby properties: and to impose any other condition upon the grant of such special exception that is authorized by §908 hereof.

livestock - such animals including but are not limited to, all cattle, horses, & other equine species, ponies, sheep, goats, swine, camelids such as llamas, alpacas, and which involve breeding, raising, caring for and housing.

lot - land occupied or to be occupied by a building and its accessory buildings, if any, or by a dwelling group and its accessory buildings, if any, together with such open spaces as are required under the provisions of this Ordinance, having not less than the minimum area and width required by

this Ordinance for a lot in the district in which such land is situated, and having its principal frontage on a street or such other means of access as may be determined to be adequate.

lot, corner - a parcel of land at the junction of and abutting on two or more intersecting streets.

lot, interior - a lot other than a corner lot.

lot lines - the lines bounding a lot as defined herein.

manufacturing - the process of making products by hand, by machinery, or by other agency, including assembly, compounding, packaging, processing or treatment of products or raw materials.

manufacturing, restricted - any manufacturing or industrial processing which by nature of the materials, equipment, and process utilized are to a considerable measure clean and quiet and free of any objectionable or hazardous element. Restricted industrial uses shall comply with the performance requirements specified in this Ordinance, and may include the industrial uses listed below and any other uses which are determined by the Board to be of the same general character: drugs, jewelry, musical instruments, small household appliances, electronic products, and parts for the production of finished equipment.

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

mobile home lot - a parcel of land in a mobile home park, improved with the necessary utility connections and other appurtenances necessary for the erection thereon of a single mobile home.

mobile home park - a parcel or contiguous parcels of land which has been planned and improved for the placement of mobile homes for non-transient use, consisting of two or more mobile home lots.

more appropriate - in reference to a nonconforming use, the changing of a use to more nearly conform to the permitted uses in such zone, thus becoming more compatible with the requirements of the district in which it is located.

neighborhood commercial - a commercial establishment which provides an outlet for convenience goods that meet daily needs such as foods, hardware, drugs, and personal services. A neighborhood commercial establishment is designed and intended principally for the use of residents of the immediate area within the community.

nonconforming lot of record - a lot officially recorded prior to enactment of this Ordinance which, by reason of design or size, does not conform with the requirements of the district in which located.

nonconforming structure - a structure or part of a structure not complying with the applicable use provisions in this Ordinance or amendments heretofore or hereafter enacted, where such structure lawfully existed prior to the enactment of this Ordinance or amendment or prior to the application of this Ordinance or amendment to its location by reason of annexation. Such nonconforming structures include, but are not limited to, nonconforming signs.

nonconforming use - a use, whether of land or of a structure, which does not comply with the applicable use provisions in this Ordinance or amendments heretofore or hereafter enacted, where such use was lawfully in existence prior to the enactment of this Ordinance or amendment.

oil and gas wells and underground gas storage - The exploration, drilling, production, processing, storage or transmission of oil, gas, or other hydrocarbons, including but not limited to, the drilling of wells, the erection of surface facilities related to such activities, including but not limited to placement of equipment, pipelines, and all related appurtenances, and the construction of access roads.

open space - a space unoccupied by buildings or paved surface and open to the sky on the same lot with the building.

patio - a hard surfaced outside living area flush with the surface of the ground and open to the sky, frequently surrounded by a low masonry wall, and principally used for cooking, dining, or sunbathing.

personal care home - any premises operated for profit in which food, shelter, and personal assistance or supervision are provided for a period exceeding twenty-four hours for two or more adults who are not relatives of the operator and who require assistance or supervision in such matters as dressing, bathing, diet, or medication.

personal service shops - barber, beauty, shoe repair, dry cleaning, and laundromats.

porch - a portion of a structure that is roofed, but is entirely open to the elements on one or more sides, except during winter months, when windows or shutters may be installed.

property line - the recorded boundary of a lot. However, any property line which abuts a "street" or other public or quasi-public way shall be considered as the outer edge of the legal right-of-way, whether or not the street or way is improved to the full width thereof.

public hearing - a formal meeting held pursuant to public notice by the Board of Supervisors or Planning Commission intended to inform and obtain public comment prior to taking action in accordance with this Ordinance.

public maintenance and storage facilities - public land and buildings devoted solely to the maintenance and storage of publicly owned equipment and material.

public meeting - a forum held pursuant to notice under the Act of July 3, 1986 (P.L. 388, No. 84), known as the "Sunshine Law."

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

public service facility - buildings, power plants or substations, water treatment plants or pumping stations, sewage disposal or pumping plants, and similar structures required for providing electrical, gas, communications, water supply, sewage disposal, or other essential services, and the transmission, distribution, collection, and communication systems, equipment, and accessories necessary thereto.

public uses - public parks, schools, and administrative, cultural, and service buildings, not including public land or buildings devoted solely to the storage and maintenance of equipment and material.

recreational facility, commercial - any activity conducted for gain which is generally related to the entertainment field, such as, but not limited to, motion picture theaters, bowling alleys, roller skating rinks, miniature golf, golf driving ranges, commercial swimming pools, carnivals, and related uses.

recreational facility, resort: A use permitted in B-1 zones only on contiguous parcels owned by one legal entity, aggregating no less than two hundred (200) acres, which use shall not create a burden or nuisance on surrounding properties substantially exceeding the burden or nuisance that other permitted B-1 uses would create, which use *must* include overnight lodging accommodations of at least fifty (50) double rooms and restaurant facilities, and some or all of the following uses: airfield, athletic field and courts, boating, bowling alley, camping, children's playground, conference center, cross country skiing, employee housing, fishing, golf courses and driving ranges, greenhouses, hiking trails, ice skating, library, miniature golf courses, movie theater, outdoor theaters, petting zoos, picnic pavilions, polo fields, horse race tracks, steeplechase courses, and other similar and customary resort uses. Once the use is established as a recreational facility, resort, a high density residential development may be developed by conditional use; thus, allowing the approved lots to be sold to individuals. All lands subdivided for purpose of conveyance shall not disconnect the visitor-oriented accommodations and shall be subject to common covenants, conditions and restrictions in order to make certain the various elements of the resort remain.

recreational facility, restricted - country clubs, riding stables, and other private noncommercial recreation areas and facilities or recreation centers, including private, community, or club swimming pools; semipublic and public golf courses, boat docks, and fishing piers; boat

launching, maintenance, repair, and fueling facilities; ski facilities; resort facilities; farms and woodland adapted for use as vacation farms; picnicking and sports areas; fishing waters; scenery and nature appreciation areas; hunting and gaming preserves; watershed projects; shooting ranges.

road - any public or private right-of-way, highway, street, land, square, court, or way, set aside as a permanent right-of-way for public travel.

sales lot - the open storage, parking, and sale of new and/or used automobiles, trucks, farm equipment, trailers, mobile homes, vacation vehicles, and other vehicles.

screen planting - a vegetative material of sufficient height and density to conceal from the view of property owners in adjoining residential districts the structures and uses on the premises on which the screen planting is located.

semipublic use - churches, Sunday Schools, parochial schools, colleges, hospitals, and other institutions of an educational, religious, charitable, or philanthropic nature.

service station - any building, structure, or land used for the dispensing, sale, or offering for sale at retail of any automobile fuels, oils, or accessories and automotive maintenance, including convenience store within the service station.

setback line - the line within a property defining the required minimum distance between any building to be erected and the adjacent right-of-way. Such line shall be measured at right angles from the front street right-of-way line which abuts the property upon which said building is located and shall be parallel to such right-of-way.

special exception use - a use which is subject to conditional approval by the Zoning Hearing Board where there is a specific provision for such special exception made in this Ordinance. The Zoning Hearing Board shall attach all conditions reasonably necessary for public health, safety, morals or welfare, which need not be specified in this Ordinance, to its approval. A violation of any such attached condition shall be subject to the same enforcement procedures set forth hereinafter for any other violation of this Ordinance. A special exception use is not considered to be a nonconforming use.

specialty shops - shops providing custom work or producing articles to be sold at retail on the premises, such as baking, confectionery, dressmaking, tailoring, and printing.

street - a strip of land, including the entire right-of-way, intended for use as a means of vehicular and pedestrian travel whether public or private, which may also be used to provide space for sewers, utilities, and sidewalks. The word "street" includes "avenue," "boulevard," "road," "highway," "lane," "alley," and "viaduct."

structure - anything constructed, the use of which requires permanent or long term location on the ground or which is attached to something having such location.

substantial improvement - any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure either, (a) before the improvements or repair is started, or (b) if the structure has been damaged, and is being restored, before the damage occurred.

variance - a modification of the regulations of this Ordinance, granted by the Zoning Hearing Board to relieve unnecessary hardship, which hardship was not created by the landowner or his predecessors in title after the enactment of the particular regulation to be varied, pursuant to the provisions of this Ordinance and pursuant to the provisions of Section 910.2 of the Municipalities Planning Code.

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.

yard - an unoccupied space open to the sky, on the same lot with a building or structure.

yard, front - an open unoccupied space on the same lot with a main building, extending the full width of the building projected to the side lines of the lot. The depth of the front yard shall be measured between the front line of the building and the street right-of-way.

yard, rear - an open unoccupied space on the same lot with a main building extending the full width of the lot and situated between the rear line of the lot and the rear line of the building projected to the side lines of the lot. The depth of the rear yard shall be measured between the rear line of the lot and the rear line of the building. A building shall not extend into the required rear yard.

yard, side - an open unoccupied space on the same lot with a main building situated between the building and the side line of the lot and extending from the front yard to the rear yard. Any lot line not a rear line or a front line shall be deemed a side line. A building shall not extend into the required side yards.

Zoning Certificate - the document issued by the Zoning Inspector authorizing the use of the land or building.

Zoning District Map - the zoning district map or maps of Wharton Township together with all amendments.

Zoning Officer - the zoning officer or his authorized representative appointed by the Board of Township Supervisors.

ARTICLE III - STATEMENT OF GOALS AND OBJECTIVES

- 301** This Ordinance is intended to implement the Multi-Municipal Comprehensive Plan for the Township of Wharton, including its goals, objectives, and policies. The following goals from that Plan, in particular, are related to the purposes of this Ordinance. *(See also § 103.)*
- (a) To achieve the best use of all land within the Township.
 - (b) To preserve the essentially rural nature of the Township.
 - (c) To promote and reasonably regulate residential growth in the Township.
 - (d) To prevent unnecessary damage or hazard to life and property due to flooding.
 - (e) To reasonably limit the occurrence of air and water pollution in the Township due to unregulated growth.
 - (f) Provide appropriate infrastructure to align with desired density and development types.
 - (g) Establish regulation municipal service opportunities to reduce negative impacts from tourism activities.
 - (h) Prevent further loss of productive land areas to preservation activities.
 - (i) Encourage economic growth and new development to enhance municipal resources retaining the high quality of life.
 - (j) Increase local awareness and understanding of land use planning.
 - (k) Identify measures to encourage residents to stay and attract new residents to the area.
 - (l) Capitalize upon the plentiful natural resources and support activities to improve the environmental integrity of the area.
 - (m) Encourage strategies to preserve the unique heritage of the area through sustainable development.
 - (n) Ensure that the transportation system facilitates traffic flow safely to offset possible conflicts to increasing levels of tourism traffic.

ARTICLE IV - DESIGNATION OF DISTRICTS

401 GENERAL DISTRICTS

For the purpose of this Ordinance, Wharton Township is hereby divided into seven zoning districts, which shall be designated as follows:

- A-1 Agricultural-Rural
- R-1 Residential, Single Family Dwelling
- R-2 Multi-Family Dwelling
- F-1 Flood Plain
- B-1 Retail Business
- B-2 Industrial District
- C-1 Conservation District

402 ZONING MAP

The boundaries of said Districts shall be shown upon the maps made a part of this Ordinance which shall be designated "Zoning Maps." The maps and all notations, references, and other data shown thereon, are hereby incorporated by reference into this Ordinance as if all were fully described herein.

403 DISTRICT BOUNDARIES

Where uncertainty exists as to the boundaries of any District as shown on said map, the following rules shall apply:

1. District boundary lines are intended to follow or be parallel to the centerline of streets, streams, and railroads; and lot or property lines as they exist on a recorded deed or plan or record in the Fayette County Recorder of Deeds office at the time of the adoption of this Ordinance, unless such District boundary lines are fixed by dimensions as shown on the Zoning Map.
2. Where a District boundary is not fixed by dimensions and where it approximately follows lot lines, and where it does not scale more than ten (10) feet therefrom, such lot lines shall be construed to be such boundaries unless specifically shown otherwise.
3. When a parcel lies between/among two (2) or more zoning districts, the owner of such parcel shall be permitted to use said parcel for any purpose as permitted/special exception/conditional use in district wherein the predominant portion of that parcel lies.

404 INTERPRETATION OF BOUNDARIES

In case of any uncertainty, the Zoning Hearing Board shall interpret the intent of the map as to location of District Boundaries.

ARTICLE V - DISTRICT REGULATIONS

501 **A-1 AGRICULTURAL-RURAL DISTRICT**

501.a **Purpose**

The purposes of the A-1 Agricultural-Rural District are to (1) identify those areas where agricultural activities should be encouraged or preserved; and (2) provide for the preservation of natural, unpolluted drainage ways, protection from flooding and highwater tables, preservation of open space and conservation of the natural environment and natural resources while providing for such uses and development as are compatible with these objective:

501.b **Permitted Uses**

1. Agriculture.
2. Structures:
 - (a) Barns, silos, corn cribs, poultry houses, mushroom houses, and other similar structures necessary to the proper operation of agricultural activities.
 - (b) Stables, dog kennels, and greenhouses.
 - (c) Grange halls or similar buildings of purely agricultural organizations.
 - (d) Single family detached dwellings, and seasonal residences.
 - (e) Accessory buildings and uses customarily incidental to the above uses.
 - (f) Mobile homes.
3. *Home occupations.*
4. Part-time or temporary sawmill for the processing of timber harvested only from the property on which the mill is located.
5. *Forestry.*
6. Oil and gas wells and underground gas storage.
7. *Essential services for local distribution.*
8. *Public maintenance and storage facility.*
9. *Communication Antennas*

501.c **Special Exception Uses**

1. Public uses.
2. Roadside stands.
3. Recreational facilities, restricted.
4. Limited local business uses.
5. Semipublic uses.
6. Cemeteries.
7. Airstrip.
8. Personal care home.
9. Communal life uses.
10. Neighborhood commercial.
11. Sawmills.
12. Deep mining.

13. Natural resource uses such as excavating, quarrying, surface mining, and the processing of top soil, sand, gravel, clay, shale, coal limestone, or other natural formation subject also to the conditions set forth in Section 613 of this Ordinance.
14. Communications Towers, and Communications Equipment Buildings.
15. Campgrounds.
16. Dwelling units, conversion
17. Wind Energy Facility

501.d Conditional Uses

1. *Public service facility*
2. *Essential services for non-local transmission.*

501.e

1. **Area Regulations**

Height

regulations.

- (a) The height of a building shall not be greater than thirty-five feet (35').
- (b) The height of a dwelling shall not be less than one (1) story.
- (c) Buildings devoted to agricultural use shall be exempt from height regulations.

2. Area and width.

- (a) The lot area per dwelling unit shall not be less than one acre.
- (b) Each lot shall have front, side, and rear yards of not less than the depth and width indicated below.
 - (1) Minimum lot width -125 feet at the front yard setback line.
 - (2) Minimum side yard -25 feet.
 - (3) Minimum front yard - 50 feet.
 - (4) Minimum rear yard - 35 feet.
 - (5) Minimum depth - 125 feet.
- (c) Buildings housing livestock (including dog kennels), poultry, or mushroom culture, shall not be closer than fifty feet (50') from any public right-of-way or lot line, nor closer than one hundred feet (100') from a residential district.

501.f Off-Street Parking - see Article VII.

501.g Sign Regulations - see Article VIII.

502 R-1 RESIDENTIAL DISTRICT, SINGLE FAMILY DWELLINGS

502.a Purpose

The purpose of the R-1 Residential District is to provide for the orderly expansion of low density residential development in those areas where public services may have to be provided in the future, and to exclude uses not compatible with such low density residential development.

502.b Permitted Uses

1. *Single family detached dwellings, excluding mobile homes (except as set forth hereinafter).*
2. Private swimming pools.
3. Home gardening, nurseries, and greenhouses.
4. Accessory buildings and uses customarily incident to the above uses.
5. *Essential services for local distribution.*
6. *Mobile homes, but only if an immediately adjacent R-1 lot bordering thereon has had a mobile home legally erected thereon continuously since a date prior to December 21, 1992.*

502.c Special Exception Uses

1. *Appropriate public uses.*
2. *Home occupations, providing no change in the facade shall indicate from the exterior that the building is being utilized for any other purpose than a dwelling.*
3. Public swimming pools.
4. *Semipublic uses.*

502.d Conditional Uses

1. *Public service facility.*
2. *Essential services for non-local transmission.*

502.e Area Regulations

1. Height regulations.
 - (a) The height of a building shall not be greater than thirty-five feet (35').
 - (b) The height of a dwelling shall not be less than one (1) story.
2. Area and widths.
 - (a) The lot area per dwelling unit shall not be less than twenty thousand (20,000) square feet per lot with the provision of a centralized water service and centralized sewage service.
 - (b) Without off-site water and sewage services, lots shall be required to be one (1) acre.
 - (c) The lot width shall be a minimum of one hundred twenty-five feet (125') at the setback line, and a minimum of fifty feet (50') at the line fronting on the street or cul-de-sac.

3. Yard regulations.

(a) Each lot shall have front, side, and rear yards of not less than the depth and width indicated below.

1) Minimum side yard - 15 feet.

2) Minimum front yard - 30 feet, or such greater depth as will provide a lot width of one hundred twenty-five feet (125') at the setback line.

3) Minimum rear yard - 30 feet

4) Minimum depth - 125 feet.

4. **Off-Street Parking** - see Article VII.

5. **Sign Regulations** - see Article VIII.

503 R-2 RESIDENTIAL DISTRICT, MULTIFAMILY DWELLINGS

503.a Purpose

The purpose of the R-2 Residential District is to provide for the construction of multifamily dwellings - a necessary dwelling type - in proper locations and at densities which are appropriate in light of the limited services available in the Township as a whole.

503.b Permitted Uses

1. Garden Apartments
2. Dwelling units, conversion
3. Duplex houses (single family semidetached and two family detached).
4. Two family semidetached.
5. Apartment houses.
6. Mobile home parks.
7. Essential services for local distribution.

503.c Special Exception Uses

1. Neighborhood commercial
2. Medical and dental clinics.
3. Greenhouses.
4. Semipublic uses.
5. Home Occupations

503.d Conditional Uses

1. Public service facility.

503.e. Area and Density Regulations

1. Height regulations.
 - (a) The height of a building shall not exceed three (3) stories or thirty-five feet (35'), whichever is greater.
 - (b) The height of a dwelling shall not be less than one story.
 - (c) The height of a multi-family dwelling shall not exceed fifty feet (50')
2. Area and Widths

The minimum lot area shall be the greater of the lot area per structure or total of the lot areas per unit as specified below:

 - (a) For two (2) units per structure (duplex), not less than 30,000 square feet per structure or 15,000 square feet per unit.
 - (b) For three or more units per structure, including garden apartments and apartment houses, not less than 40,000 square feet per structure or 8,000 square feet per unit.
 - (c) For mobile home parks, as established in the Subdivision and Land Development Ordinance.

(d) The minimum lot width for any multifamily structure shall be 150 feet.

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3. Yard Regulations.

(a) All structures shall be set back not less than the minimums specified below from property lines and from other structures on the same lot.

(1) Minimum front yard - 50 feet.

(2) Minimum side yard - 20 feet.

(3) Minimum rear yard - 30 feet.

(4) Minimum lot depth - 125 feet.

(5) Minimum distance between structures on the same lot - 25 feet.

(b) Mobile homes in mobile home parks shall observe the setback regulations of the Wharton Township Subdivision and Land Development Ordinance.

503.f Off-Street Parking - see Article VII.

503.g Sign Regulations - see Article VIII.

504 B-1 COMMERCIAL BUSINESS DISTRICT

504.a Purpose

The purpose of the B-1 Commercial Business District is to provide for the orderly development of commercial and limited industrial uses in an area in which both natural attractiveness and commercial tourism activities are important to the community and must be balanced.

504.b Permitted Uses

A lot or parcel may be used and a building or structure may be erected and used for any of the following purposes.

1. *Retail stores.*
2. Business, professional, and financial offices.
3. Medical and dental *clinics*.
4. *Specialty shops.*
5. Hotels, motels, boarding and lodging houses, nursing homes, and personal care homes.
6. Restaurants, cafes, tearooms, and other places serving food and beverages.
7. *Personal service shops.*
8. Funeral homes.
9. *Recreational facilities, commercial.*
10. *Recreational facility, resort.*
11. Fraternal clubs, lodges, social clubs, recreational clubs, and youth clubs.
12. Automobile parking lots and parking garages.
13. *Automotive maintenance.*
14. *Sales lots.*
15. *Highway commercial.*
16. *Semipublic uses.*
17. *Essential services for local distribution.*
18. *Essential services for non-local transmission.*
19. Accessory buildings and uses customarily incidental to the above uses.
20. *Communications Antennas mounted on an existing public utility transmission tower, building, or other structure, and accessory Communications Equipment Building.*
21. *Home Occupations.*

504.c Special Exception Uses

1. *Apartment houses.*
2. Accessory *dwelling units* for owner or security use.
3. Oil and gas wells and underground gas storage

504.d Conditional Use

1. *Public service facilities.*

504.e Area, Width, Coverage, and Yard Regulations

1. Commercial, service, and office uses:
 - (a) Lot area and width: a minimum lot area and width shall not be required for commercial service, and office uses; however, adequate space shall be provided for landscaping, setbacks, and off-street parking.

2. Landscape area:
 - (a) The landscape area shall not be less than twenty percent (20%) of the total lot area.
3. Setbacks applying to all structures:
 - (a) Minimum front yard setback - 60 feet.
 - (b) Minimum side yard setback - 20 feet.
 - (c) Minimum rear yard setback - 20 feet.
4. The following table provides the bulk and area standards in single-family and multi-family residential dwellings uses in the recreational facility, resort, as an approved conditional use by the Board of Supervisors.

Single Family Dwelling (Small Lot)

Minimum Lot Size	10,000 sq.ft.
Minimum Lot Width	75'
Front Setback	30'
Side Setback	10'
Rear Setback	10'
Minimum Common Open Space	25%
Maximum Height	35'

Single Family Dwelling (Large Lot)

Minimum Lot Size	20,000 sq. ft.
Minimum Lot Width	125'
Front Setback	30'
Side Setback	15'
Rear Setback	30'
Minimum Common Open Space	15%
Maximum Height	35'

Multi-Family Dwelling (Duplex, Triplex, Quad)

Maximum Number of Units	8 living units per acre
Minimum Lot Width	-----
Front Setback	30'
Side Setback from cluster boundary	40' outermost exterior wall
Rear Setback	20'
Minimum Open Space	25%
Minimum Common Open Space	50%
Minimum Building Separation (not each unit as the UCC fire code)	20'
Maximum Height	50'

- **Development shall be serviced by public sewerage and water or any approved community system (permit issued by the Department of Environmental Protection.**

504.f Height Regulations

Normally the maximum height for commercial and service buildings shall be two (2) stories or thirty feet (30'). This maximum height may be extended to five (5) stories or seventy (70) feet where permitted by the Department of Labor and Industry and provided that the building is set back from the property line in all directions (front, both sides, and rear) a distance equal to three (3) times the building height.

504.g Off-Street Parking Regulations - see Article VII.

504.h Sign Regulations - see Article VIII.

505 B-2 INDUSTRIAL DISTRICT

505.a Purpose

The B-2 Industrial Business district is intended to provide land, in appropriate locations for the development or expansion of industrial uses in order to increase employment opportunities and to provide for a better economic balance in the community.

505.b Permitted Uses

1. *Manufacturing, restricted*, and assembly operations which will emit no noise, smoke, or odor perceptible at the lot line.
2. Wholesale commercial activities, not selling directly to the public, and warehousing or self-storage operations.
3. Retail activities which are accessory to on-site manufacturing uses.
4. *Public maintenance and storage facilities*.
5. *Essential services for local distribution*.
6. *Essential services for non-local transmission*.
7. *Communications Antennas* mounted on an existing public utility transmission tower, building or other structure and accessory *Communications Equipment Buildings*

505.c Special Exception Uses

1. Sawmills.
2. *Automotive repair*.
3. *Automobile dismantling operations*.
4. *Junk storage and/or sales*.
5. *Manufacturing*.
6. *Adult oriented establishment*.
7. All lawful uses not specifically provided for elsewhere in this Ordinance.
8. Wind energy facility

505.d Conditional Use

1. *Public service facility*.

505.e Area Regulations

1. Height Regulations
 - (a) Except for towers, chimneys, and similar structures specifically exempted elsewhere in this Ordinance, no building may exceed thirty-five feet (35') in height.
2. Area and Width
 - (a) The minimum lot area for any use in this district is two (2) acres; however, in no case may a building which would exceed the setback or coverage regulations be permitted regardless of the size of the lot provided.
 - (b) The minimum lot width is 200 feet.

3. Yard Regulations

- (a) No building shall be placed closer to a lot line than the following distances.
 - (1) Minimum front yard - 60 feet.
 - (2) Minimum side yard - 30 feet.
 - (3) Minimum rear yard - 30 feet.
- (b) No accessory structure may be placed less than 20 feet from a lot line.

505.f Off-Street Parking - see Article VII.

505.g Sign Regulations - see Article VIII.

506 F-1 FLOOD PLAIN DISTRICT

506.a Purpose

The purpose of the F-1 Flood Plain District is to prevent development in areas unfit therefor by reason of flooding; to minimize danger to public health, safety, and welfare of residents and property owners in or near streams and areas subject to flooding; and to provide for the preservation of natural drainage ways while providing for such uses and development as are compatible with these objectives.

506.b Definition of District

The F-1 Flood Plain District is defined and established to be the low area adjoining any water or drainage course or body of water subject to the periodic flooding or overflow and delineated as:

1. "Alluvial soils" by the Soil Conservation Service, United States Department of Agriculture, in the Soil Survey of Fayette County, Pennsylvania, as amended.
2. The "Flood Hazard Boundary Map" (FHBM) dated May 2, 1980 as issued by the Federal Emergency Management Agency (FEMA) or the most recent Flood Insurance Rate Map (FIRM) issued by FEMA, if such a map has been prepared for the Township. In no instance shall the identified flood plain area be less than what is delineated on the most current FHBM or FIRM issued by FEMA. The identified flood plain area may be revised or modified by the Board where studies or information provided by a qualified agency or person documents the need for such revision. However, prior to any such change, approval must be obtained from the Federal Insurance Administration (FIA).
3. Zoning Map - The F-1 Flood Plain District, as herein above defined, shall be defined by reference to the documents and mapping described in Section 506.b which are hereby made a part of this Ordinance. For the purpose of defining the application of the FHBM to any specific area, the maps, data, and other sources of material described in Section 506.b shall be available and shall be proof of the intended limits of the F-1 Flood Plain Districts as may from time to time be determined to be proper. As further information becomes available it shall forthwith be reflected on said documents and maps.

506.c Permitted Uses

1. *Forestry*, excluding storage and structures related to the harvesting of lumber products.
2. Horticultural uses related to the raising and propagating of shrubs, flowers, and other vegetative materials.
3. *Recreational facilities, restricted*, but excluding enclosed structures and any overnight accommodations.
4. Agricultural uses related to the tilling of the land, the raising of farm products, the raising and keeping of horses, cattle, and other livestock, and raising of poultry and poultry products excluding structures.
6. Wildlife sanctuary, woodland preserves, arboretum.
7. Game farm, fish hatchery, hunting and fishing reserves, excluding enclosed structures.
8. Pasture and grazing land.

9. Front, side, or rear yards and required lot area for any District
10. Essential services for local distribution
11. Repairs, improvements or modifications to an existing non-conforming structure which cumulatively amount to less than fifty percent (50%) of the market value of the structure are permitted provided such work does not result in the expansion or enlargement of the structure.

506.d Area, Density, and Lot Width Regulations

No minimum lot size shall be required for the permitted and special exception uses except as otherwise provided herein.

506.e Off-Street Parking Regulations - see Article VII.

506.f Sign Regulations - see Article VIII.

506.g Watercourse Alteration

No encroachment, alteration, or improvement of any kind shall be made to any watercourse until all adjacent municipalities have been notified by the Township and until all required permits or approvals have been first obtained from the Department of Environmental Protection, Bureau of Dams and Waterway Management. In addition, the Federal Insurance Administrator and Pennsylvania Department of Community Affairs, Bureau of Community Planning shall be notified by the Township prior to any alteration or relocation of any watercourse.

507 C-1 CONSERVATION DISTRICT

507.a Purpose

The purpose of the C-1 Conservation District is to identify and protect those areas which, by virtue of their characteristics and natural amenities should have as little development as possible, and then only that development which is consistent with the character of the area.

507.b Permitted Uses

1. *Agriculture.*
2. *Forestry.*
3. *Recreational facilities, restricted.*
4. Oil and gas wells, and underground gas storage.
5. Park and playground areas.
6. Seasonal houses.
7. *Single family detached dwellings.*
8. *Essential services for local distribution.*
9. *Essential services for non-local transmission.*
10. *Public maintenance and storage facility.*
11. Accessory uses to the above.
12. *Communications Antennas* mounted on an existing public utility transmission tower, building or other structure, and accessory *Communications Equipment Building*

507.c Special Exception Uses

1. Cemetery.
2. *Home occupation.*
3. Rifle range.
4. *Semipublic uses.*
5. *Public uses.*

507.d Conditional Use

1. *Public service facility.*

507.e Area Regulations

Uses shall conform to the requirements for the A-1 Agricultural-Rural District in Section 501e.

507.f Off-Street Parking - see Article VII.

507.g Sign Regulations - see Article VIII.

ARTICLE VI-SUPPLEMENTAL REGULATIONS

601 NONCONFORMING USES AND BUILDINGS

Any legal nonconforming use may be continued, repaired, maintained, and improved except as provided below.

601.a Enlargement: Such nonconforming use may not be enlarged without a certificate of nonconforming use, issued by the Zoning Officer if the facts are sufficiently clear, or by the Zoning Hearing Board. The nonconforming use shall not be enlarged beyond double the existing floor area without Zoning Hearing Board approval and in no event shall such resulting enlargement exceed the maximum height or maximum building coverage requirements set forth for the District in which such nonconforming use is located.

601.b Restoration: If any such nonconforming use is damaged, a permit for its restoration or reconstruction may be obtained if such application is filed within one (1) year of the initial damage or destruction.

601.c Discontinuance: No such use may be reestablished after it has been discontinued or vacated for a period of two years.

601.d Change of Use: A nonconforming use may be changed to another nonconforming use only if such change is *more appropriate* to the District in which it is located as determined by the Zoning Officer.

602 EXISTING NONCONFORMING LOTS

In any district, where a nonconforming lot exists as a separate entity at the time of passage of this Ordinance, or relevant amendment hereto, and where the owner of the nonconforming lot does not own an adjoining lot, then the following development is permitted.

602.a If the lot is located in any residential district, a single family dwelling may be constructed on it as a permitted use, provided that the lot is in at least seventy-five percent (75%) compliance with each of the following requirements of the single family dwelling, as specified in the District in which the lot is located: lot area, lot width, rear yard, side yard, and maximum building coverage.

602.b If the lot is located in any remaining District, then a structure not exceeding two stories in height may be constructed on it for a use permitted in the District in which it is located, provided that the off-street parking and loading requirements of this Ordinance shall be complied with and that the front, side, and rear yards are in keeping with the surrounding area, except that a side yard of at least thirty (30) feet shall be required whenever such a use abuts an existing residential use or residential district.

603 UNIQUE LOTS AND BUILDING LOCATIONS

603.a Two or More Buildings on a Lot: Two or more principal buildings located on a parcel in single ownership shall conform to all the requirements of this Ordinance which would normally apply to each building if each were on a separate lot.

603.b Through Lots: Where a single lot under individual ownership extends from one street to another parallel or nearly parallel street or alley, the Planning Commission shall recommend to the Township Supervisors which street will be considered as the front street. No principal structure shall be erected on the rear of the lot, except as specified in Sections "a" and "c" of 603 of this Ordinance.

603.c Lots Fronting on an Alley: Individual lots, existing at the effective date of this Ordinance, fronting on an alley, shall comply with all the requirements of this Ordinance and the District in which said lots are located.

603.d Corner Lots

1. Unless otherwise approved under the *Wharton Township Subdivision and Land Development Ordinance*, corner lots in all districts shall have two front yards abutting streets, and two side yards, with no rear yard required.
2. No obstruction to vision (other than an existing building, post, column, or tree) exceeding thirty inches in height shall be erected, planted, or maintained on any lot within the triangle delineated by the center line of each street and the line drawn between the point on each center line one hundred (100) feet from the point where the two center lines intersect. All plant materials shall be kept trimmed by the landowner to ensure uninterrupted vision for motor vehicle traffic. See Section 506.3 of the *Wharton Township Subdivision and Land Development Ordinance*.

603.e Adjoining land mergers: When a single lot, tract or parcel of land is divided into two or more lots, tracts or parcel of land for the purpose of enlarging or merging with an abutting parcel of land. The subdivider shall follow the requirements for a minor subdivision, as provided in Subdivision and Land Development Ordinance, and shall prepare and record a new deed describing the newly acquired parcel and the abutting parcel as one tract of land within ninety (90) days of the approval of the subdivision. The subdivider shall submit to the Township Secretary a stamped copy of the recorded deed and the recording receipt as proof of compliance with this section. The same shall be required when an adjoining land merger occurs within a major subdivision. See this Ordinance No. 1 of 2002, Article IX for enforcement.

604 CHANGES TO CONFORMING USES AND BUILDINGS

Any conforming use or building may be repaired, maintained, restored, or rebuilt to the same dimensions existing at the time that the use or building was originally constructed or started. Any enlargement or addition to any conforming use must comply in all respects with the regulations of this Ordinance.

605 HEIGHT LIMITATIONS

District height limitations shall not apply to *Communications Towers*, church spires, cupolas and domes, monuments, water towers, chimneys, smoke stacks, farm structures, silos, flag poles, utility poles, utility towers, and parapet walls extending not more than four feet above the limiting height of the building. The Board of Supervisors, after review by the Commission, may waive the height limitations of this ordinance, as they pertain to elevator apartments and to commercial and manufacturing buildings. In such cases, the Board of Supervisors shall determine that such a departure is in the best interest of the municipality, that will be compatible with and not cause substantial injury to the value of other adjoining property, and that adequate off-street parking, loading, and fire protection will be provided.

606 FRONT YARD EXCEPTION

When an unimproved lot is situated between two improved lots, each having a principal building within fifty feet of the side lot line of the unimproved lot, the front yard may be reduced to a depth equal to that of the greater front yard of the two adjoining lots; provided, however, that it may not be reduced to below twenty feet in residential districts and ten feet in commercial and manufacturing districts.

607 PROJECTIONS INTO YARDS

Projections into required yards shall be permitted as follows, except that no such projection shall be located closer than ten feet to any side or rear lot line or twenty feet to any front lot line.

607.a Fire escapes, uncovered stairs and landings, canopies, eaves, or other architectural features not required for structural support may project into the- required side, front, or rear yard not more than a total of three feet.

607.b Porches (or patios) may project into the required front or rear yard up to fifteen feet.

607.c Patios may be located in the required rear and/or side yards not closer than ten feet to any adjacent property line.

608 ACCESSORY STRUCTURES AND USES

All *accessory structures* shall conform with the minimum yard regulations established in zoning districts, except as permitted below.

608.a Unattached Structures Accessory to Residential Buildings: Structures accessory to residential buildings which are not attached to a principal structure shall not be higher than fifteen feet or one and a half stories and may be erected within the required rear yard of a principal structure provided that they conform with the following:

1. **Distance from Side Lot Line:** Not less than six feet from the side lot line.
2. **Distance from Rear Lot Line:** Not less than five feet from the rear lot line.
3. **Distance from Principal Structure:** Not less than ten feet from a principal structure.

608.b Unattached Structures Accessory to Nonresidential Buildings: Such accessory structures shall comply with front and side yard requirements for the principal structure and shall have a minimum rear yard of at least ten feet.

608.c Fences, Walls, Steps and Sidewalks: Unless specifically noted, the minimum yard regulations of this Ordinance shall not apply to fences or walls not over eight feet (8') in height above ground level, nor to steps, sidewalks, or other similar features not over 42" in height above ground level.

609 WIND ENERGY FACILITIES

I. Wind Turbines

This Ordinance is not intended to apply to stand-alone Wind turbines constructed for residential or farm use.

II. DEFINITIONS

- 2.1 "Applicant" is the person or entity filing an application under this Ordinance.
- 2.2 "Facility Owner" means the entity or entities having an equity interest in the Wind Energy Facility, including their respective successors and assigns.
- 2.3 "Operator" means the entity responsible for the day-to-day operation and maintenance of the Wind Energy Facility.
- 2.4 "Hub Height" means the distance measured from the surface of the tower foundation to the top of the Wind turbine (nacelle (hub), to which the blade is attached.
- 2.5 "Occupied Building" means a residence, school, hospital, church, public library or other building used for public gathering, as well as barns which shelter livestock, so long as it is occupied or in use when the permit application is submitted.

- 2.6 “Turbine Height” means the distance measured from the surface of the tower foundations to the highest point of the turbine rotor plane.
- 2.7 “Wind Turbine” means a wind energy conversion system that converts wind energy into electricity through the use of wind turbine generator, and include the nacelle, rotor, tower, and pad transformer, if any.
- 2.8 “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.
- 2.9 “Landowner” means all persons named as grantees on the current deed or court decree describing the land.
- 2.10 “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.

III. PERMITTED USE

- 3.1 A Wind Energy Facility shall be considered a special exception use in areas zoned as A-1 (Agricultural-Rural) and B-2 (Industrial Business) Districts.

IV. PERMIT REQUIREMENTS

- 4.1 No wind Energy Facility, or addition of a Wind Turbine to an existing Wind Energy Facility, shall be constructed or located within Wharton Township unless a zoning permit has been issued to the Facility Owner, Operator or Landowner approving the use under this Ordinance.
- 4.2 The permit application shall demonstrate that the proposed Wind Energy Facility will comply with this amending Ordinance, the Zoning Ordinance No. One of 2002, as amended from time to time and the Wharton Township Subdivision and Land Development Ordinance No. 2 of 2002, as amended from time to time.
- 4.3 Among other things, the application shall contain the following:
 - (A) 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 the ancillary facilities.
 - (B) An affidavit or similar evidence of agreement between the landowner and the Facility Owner or Operator demonstrating that the Facility Owner or Operator has the permission of the landowner to apply for necessary permits for construction and operation of the Wind Energy Facility.
 - (C) A site plan in the form of a map, drawn to scale, showing 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. Each of the lots, parcels or tracts of land shall be identified by landowner’s name, mailing address, tax map number and amount of

acreage in each parcel. The map shall also indicate the location of residences and other structures on each parcel, and the location of each turbine, access roads, turnout locations, substation(s), electrical cabling from the Wind Energy Facility to the substation(s), ancillary equipment, buildings, structures, including permanent meteorological towers, associated transmission lines, and applicable setbacks and boundary lines, and zoning district(s).

- (D) Documents related to manufacturer's design specifications, including braking mechanisms, heights of turbines from the ground to the hub, and the span of the blades, size of the engine.
- (E) Reports determining the noise and flicker effects, and potential costs and provisions for decommissioning.
- (F) Any studies, reports, certifications and approvals relating to potential impacts on nearby historical landmarks, tourist attractions, traffic patterns, road construction, natural wildlife habitat and migration pathways, view-shed from access roads, representative locations or other tourist attractions, and flicker and noise levels, which the facility operator has prepared or consulted in the process of considering site preparation and development.
- (G) Any requested variances.

V. APPLICATION PROCEDURE

- 5.1 The Applicant shall follow "Article IX-Administration and Enforcement" of the Wharton Township Zoning Ordinance Number One of 2002, as amended from time to time, incorporated by reference as if fully stated.
- 5.2 The fee and application shall be submitted to the Township Zoning Officer, who, after determining it is complete, will refer it to the Wharton Township Zoning Hearing Board for a public hearing.
- 5.3 The Zoning Hearing Board may consider any credible evidence of the potential impacts listed in sub-sections 4.3 (E) and (F) presented during the hearing.

VI. DESIGN, CONSTRUCTION AND INSTALLATION

- 6.1 Uniform Construction – To the extent applicable, the permittee shall comply with the Pennsylvania Uniform Construction Code, 34 Pa. Code 403.1, et seq. The Uniform Construction Code is administered by the Fayette County Office of Planning, Zoning and Economic Development through an inter-municipal cooperation agreement which is renewed and updated periodically.
- 6.2 Subdivision and Land Development Ordinance – The permittee shall submit a land development plan and comply with sedimentation and erosion standards, setbacks, and other applicable provisions as stated in Ordinance No.2 of 2002, as amended from time to time.

- 6.3 Federal Aviation Agency Guidelines for flight safety – The permittee shall comply with the published Federal Aviation Agency Guidelines regulating air safety in effect at the time of construction. No other artificial lighting is permitted, except to the extent necessary for safe operation, repairs and maintenance. No wind turbine or tower may be installed in an airport hazard area. Prior to construction, the permittee shall notify in writing all medical emergency Helicopter response units which serve the area.
- 6.4 Visual appearance – (A) Wind turbines shall be a non-obtrusive color such as white, off-white or gray. (B) A wind turbine may not be located within a half mile (.5 mile) of a property or a district listed on the National Register of Historic Places. This provision may be waived by the Zoning Hearing Board if the applicant can demonstrate that the installation of a wind turbine would not be a significant intrusion on the public view of National Register properties, historic buildings or on the historic landscapes surrounding such properties. To be eligible for a waiver the applicant must show consultation under the National Historic Preservation Act with the appropriate Federal Agency, where applicable, the Advisory Council on Historic Preservation and/or the Pennsylvania Historical and Museum Commission.
- 6.5 Advertisements – Wind Turbines shall not display advertising, except for reasonable identification of the turbine manufacturer, the power purchaser, and the Facility Owner and Operator in the event of an emergency, placed at the base of the turbine.
- 6.6 Power lines – On-site transmission and power lines between Wind Turbines shall, to the maximum extent practicable, be placed underground.
- 6.7 Warnings – A clearly visible warning sign concerning voltage must be placed at the base of all pad-mounted transformers and substations.
- 6.8 Guy wires – 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 feet from the ground.
- 6.9 Climb prevention – Except for three to five stair steps to the generator’s access door, Wind turbines shall not be climbable up to fifteen (15) feet above ground surface.
- 6.10 Locks – All access doors to Wind Turbines and electrical equipment shall be locked or fenced, as appropriate, to prevent entry by non-authorized persons.
- 6.11 Ice Throw- Signs warning against the danger of ice thrown from the blades shall be placed at strategic points along setback lines.

VII. SETBACKS, DIMENSIONAL RESTRICTIONS AND WAIVERS

- 7.1 Minimum area – The minimum lot size for a commercial wind turbine shall be two (2) acres.
- 7.2 Height restriction – The top of a commercial wind turbine shall not exceed 270 feet to the top of the nacelle, not including the blades.
- 7.3 Participating landowner’s property – (A) Wind turbines shall be set back from the nearest lot line a distance not less than 100% of the wind turbine’s actual height, including the blade. The setback distance shall be measured to the center of the Wind Turbine base. With the participating landowner’s consent, the Board may waive this provision where two adjoining lots are owned by the same participating landowner. (B) Wind turbines shall be set back from the nearest building a distance not less than 100% of the wind turbine’s actual height, including the blades.

- 7.4 Non-participating landowner's property – (A) Wind turbines shall be set back from the nearest lot line a distance not less than 150% of the windmill turbine's actual height, including the blades. (B) Wind turbines shall be set back from the nearest occupied building located on a non-participating landowner's property existing at the time of application a distance of not less than four (4) times the actual height of the turbine, including the blades, as measured from the center of the Wind Turbine base to the nearest point on the foundation of the building. A non-participating landowner may waive this provision in writing suitable for recording, in which case the non-participating landowner shall become a participating landowner.
- 7.5 Public Roads – All Wind Turbines shall be set back from the nearest public road a distance not less than 150% of the wind turbine's actual height, including the blades, as measured from the right-of-way line of the nearest public road to the center of the wind turbine base.
- 7.6 Waiver of Setbacks – The Board may waive the setback requirements in §§7.3 and 7.4 when Participating and Non-Participating landowners sign a waiver that includes a statement that the landowner consents to the Wind Energy Facility's encroachment, a reference to the recordation of the landowner's deed and tax map number, a reference to the applicable setback provisions in this Ordinance, and the actual setbacks the Wind Energy Facility is observing between the Wind Turbines and the subject building or property line. The waiver shall be recorded in the Fayette County Office of the Recorder of Deeds and indexed under the name of the landowner. This provision may also be satisfied by a memorandum of lease if it includes the same information. The applicant shall provide the Zoning Hearing Board with proof of recording as a condition to the zoning permit.
- 7.7 Waiver of Setbacks from Public Roads – The Zoning Hearing Board may waive the setback requirement for public roads for good cause shown.

VIII. USE OF TOWNSHIP ROADS

- 8.1 The applicant shall identify all state and local roads to be used within Wharton Township to transport equipment and parts for construction, operation or maintenance of the Wind Energy Facility, and tourists. The Pennsylvania Department of Transportation governs all state roads in the Township. The applicant must consult with the Department regarding the use of state roads.
- 8.2 If any of the Township roads to be used for heavy hauling are not posted for weight or size restrictions, the Township's engineer or a qualified third party engineer hired by the Board of Supervisors at the permittee's expense shall conduct an engineering and traffic study in compliance with the Pennsylvania Department of Transportation laws and regulations (75Pa. C.S.A. §4902(a)-(f.1); 67 Pa. Code §189.1) and determine whether the road may be damaged or destroyed, or whether hazardous conditions or other safety factors exist which require the size or weight of vehicles to be restricted, or alternate routes to be designated.
- 8.3 For Township Roads, the permittee and the Board of Supervisors may enter into a Heavy Hauling and Road Maintenance Agreement and Permit or an equally enforceable agreement.

- 8.4 The Board of Supervisors may require the applicant to post security in the form of a performance bond in an amount the Board determines to be sufficient to maintain and repair damages resulting from heavy hauling.
- 8.5 Any road damage caused by the permittee or its contractors or agents shall be promptly repaired at the permittee's expense.

IX. LOCAL EMERGENCY SERVICES

- 9.1 The permittee shall provide a copy of the project summary and site plan to local emergency services, including paid or volunteer Fire Department(s).
- 9.2 Upon request, the permittee shall cooperate with emergency services to develop and coordinate implementation of an emergency response plan for the Wind Energy Facilities.

X. NOISE AND SHADOW FLICKER, WAIVERS

- 10.1 Audible sound from a Wind Energy Facility shall not exceed fifty five (55) dBA, as measured at the exterior of any occupied building on a non-participating landowner's property. Methods for measuring and reporting acoustic emission from Wind Turbines and the Wind Energy Facility shall be equal to or exceed the minimum standards for precision described in ASEA Standard 2.1-1989 titled Procedures for the Measurement and Reporting of Acoustic Emissions from Wind Turbine Generation Systems Volume I: First Tier.
- 10.2 The Facility Owner and Operator shall makes reasonable efforts to minimize shadow flicker to any occupied building on a non-participating landowner's property.
- 10.3 The Board may waive the noise and shadow flicker provisions of this Ordinance when the landowner (as defined by this Ordinance) waives the noise and shadow flicker provisions by executing a written waiver suitable for recording. The written waiver shall notify the landowner of the sound or flicker limits in this Ordinance, describe the impact on the landowner, and state that the consent is granted for the Wind Energy Facility not to comply with the sound or flicker limit in this Ordinance.
- 10.4 Any such waiver shall be recorded in the Recorder of Deeds Office of Fayette County, unless the same language required in §10.3 above is contained in a Memorandum of Lease which will be recorded. Applicant shall provide the Zoning Hearing Board recordation information as a condition to the zoning permit.

XI. SIGNAL INTERFERENCE

- 11.1 The permittee shall avoid any disruption or loss of radio, telephone, television, satellite, or similar signals, and shall mitigate any harm caused by the Wind Energy Facility.

XII. LIABILITY INSURANCE

- 12.1 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. The applicant shall submit a copy of certificates to the Zoning Hearing Board as a condition to the zoning permit.

XIII. DECOMMISSIONING

- 13.1** Either the landowner or the Facility Owner and Operator, shall, at its expense, complete decommissioning of the Wind Energy Facility, or individual Wind Turbines, within six (6) 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.
- 13.2** If the Facility Owner or Operator fails to complete decommissioning within six (6) months, then the landowner shall have six (6) months to complete decommissioning.
- 13.3** Decommissioning shall include removal of Wind Turbines, buildings, cabling, electrical components, roads, foundations to a depth of 36 inches, and any other associated facilities.
- 13.4** Disturbed earth shall be graded and re-seeded, unless the landowner requests in writing that the access roads or other land surface areas not be restored.
- 13.5** Performance Bond – Before any construction can commence at any tower, and at all times thereafter, a performance bond shall be posted and maintained with the municipality in the amount of at least \$20,000 per turbine, providing that, if such tower is not so removed, then the municipality can direct the bonding company to remove the tower.

XIV. PUBLIC INQUIRIES AND COMPLAINTS

- 14.1** The Facility Owner and Operator shall maintain a phone number and identify a responsible person for the public to contact with inquiries and complaints through the life of the project.
- 14.2** The Facility Owner and Operator shall make reasonable efforts to respond to the public's inquiries and complaints by responding to the complainant within 10 business days from the date it received the complaint. The Facility Owner's or Operator's response must contain a brief statement of the problem, a planned solution and an estimate of the time it will take to correct the problem, when it cannot be corrected within the ten (10) day period.

XV. ENFORCEMENT AND REMEDIES

- 15.1** It shall be unlawful for any person, firm, or corporation to violate or fail to comply with or take any action which is contrary to the terms of this amending ordinance or Ordinance Number One of 2002, or any permit issued under the ordinance, or cause another to violate or fail to comply, or to take any action which is contrary to the terms of the ordinance or any permit issued under the ordinance.
- 15.2** If the Board of Supervisors determines that a violation of the Ordinance or the permit has occurred, the Board of Supervisors shall provide written notice to any person, firm, or corporation alleged to be in violation of this Ordinance or permit. If the alleged violation does not pose an immediate threat to public health or safety, the Board of Supervisors and the parties shall engage in good faith negotiations to resolve the alleged violation. Such negotiations shall be conducted within thirty (30) days of the notice of violation.

15.3 If after thirty (30) days from the date of the notice of violation the Board of Supervisors determines, in its discretion, that the parties have not resolved the alleged violation, the Board of Supervisors may institute proceedings as described in §§904.c, 910-913 of Ordinance Number One of 2002, as amended from time to time, incorporated by reference here as if fully stated.

610 EXCAVATIONS AND FILL MATERIAL

Any excavations for the removal of topsoil or other earth products must be adequately drained to prevent the formation of pools of water. The Zoning Officer shall require that such an excavation be enclosed by a fence, or otherwise made safe, for such excavation is hereby deemed to be a menace to the public's health and safety. Unless specifically permitted, open excavations shall not be maintained. All lands so stripped or otherwise excavated shall be satisfactorily restored in conformance with requirements of the Pennsylvania Bureau of Mines and Mineral Industries, Department of Environmental Resources. The dumping of earth, gravel, rock, or other materials which are not hazardous, subject to decay, and which do not give *off* noxious or offensive odors may be accomplished without a permit in any zone in which not specifically prohibited provided that the existing grade shall not be raised more than three feet above the nearest road, that hazardous or nuisance conditions are not created, and that an unsightly appearance or unstable slopes are not created.

611 MISCELLANEOUS PROVISIONS

611.a Yard Planting and Screening: Yard screening shall be provided along the boundaries of any manufacturing or commercial use or off-street parking lot which abuts a residential use and on any Special Exception use where such screening is required. Such screening shall consist of a visual screen or obstruction of suitable shrubs, hedges, fences, or walls at least six feet high, Fences, walls, shrubs, or hedges under six feet tall may be located in any yard or court and shall be maintained in good condition. Trees and other plant material designed to enhance the livability and attractiveness of any lot may also be located in any yard or court.

611.b Streets and Driveway Access: It is the objective of this Ordinance to encourage orderly development which will provide for proper access and reduce traffic conflicts and provide for the health, safety and welfare of the population of the municipality. This shall be accomplished as follows:

1. The design of streets, service drives, and pedestrian ways shall provide for safe, convenient, and hazard-free internal circulation of goods, persons, and vehicles.
2. Land developments shall be limited to the minimum number of driveway access points from the street or highway and such driveway access points shall not be more than twenty-five feet wide and shall be designed and located in a manner which will minimize

their interference with any traffic movements on the street or highway.

3. Where a number of individual parcels or buildings are being developed jointly, or where a parcel or building is being developed adjacent to another parcel used or suitable for nonresidential development, the Supervisors shall retain the authority to impose the following requirements:
 - (a) The location and planning of driveway access points to permit their joint use by adjoining parcels so as to minimize the number of intersections with the street or highway from which they derive their access.
 - (b) The development of parking and loading areas which permit convenient traffic circulation between adjoining parcels.
 - (c) The development of pedestrian walkways between adjoining parking areas and buildings.
 - (d) The provision of landscaping and other features which will enhance the usability, character, and attractiveness of the area.

612 CONDITIONAL USES

612.a Uses specified as conditional within the District Regulations of this Ordinance shall be permitted after no more than a thirty (30) day review by the Planning Commission and approval within sixty (60) days thereafter by the Board of Supervisors based on the determination that the conditional use is appropriate to the specific location for which it is proposed, consistent with the community development plan, and in keeping with the purposes and intent of this Ordinance. The following criteria shall be used as a guide in evaluating a proposed conditional use:

- (1) The presence of adjoining similar uses.
- (2) An adjoining district in which the use is permitted.
- (3) The need for the use in the area proposed as established by the Comprehensive Plan or other valid surveys.
- (4) Sufficient area to effectively screen the conditional use from adjacent different uses.
- (5) Conflict with or detracting from permitted uses of the District.
- (6) Sufficient safeguards, such as parking, traffic control, screening, and setbacks, can be implemented to remove any potential adverse influence the use may have on adjoining uses.
- (7) The notification of abutting property owners.
- (8) Compliance with the provisions and requirements of other applicable Township regulations.

612.b Should the applicant fail to obtain the necessary permits within a six (6) month period, or having obtained the permits, should he fail to commence work thereunder within such six (6) month period, it shall be conclusively presumed that the applicant has waived, withdrawn, or abandoned his appeal or his application, and all provisions, conditional uses, and permits granted to him shall be deemed automatically rescinded by the Board of Supervisors.

613 NATURAL RESOURCE USES - MINERAL EXTRACTION OPERATIONAL REQUIREMENTS

613.a Vibrations: Machines or operations which cause vibrations shall be permitted, but, except for blasting operations regulated by state or federal law, in no case shall any such vibrations be perceptible along any adjoining property.

613.b Emissions: The emission of dust, smoke, refuse matter, odor, gas, fumes, noise, or similar substances which can endanger the health, safety or general welfare or which can cause soiling or staining of persons or property *off* the premises are hereby prohibited.

613.c Fencing: A fence that completely protects the upper side of an open excavation or quarry shall be provided. Other effective safety measures may be substituted for fencing if approved by the Zoning Hearing Board.

613.d Buffer Planting: Where adjacent to Residential Areas, trees and shrubs must be planted or left to screen the operation from normal view. The same requirement applies to operations adjacent to public rights-of-way.

613.e Setbacks:

1. **Residential:** When adjacent to a Residential Zone, no stockpiles, waste piles, processing or manufacturing equipment and no part of the open excavation or quarrying pit shall be located closer than five hundred (500) feet to the Residential Zone without the recorded consent of such affected landowners.
2. **Street:** From the right-of-way line of a public street or highway no part of a quarrying or excavating operation shall be closer than one hundred (100) feet without a written agreement from the public body responsible for the maintenance of the street.
3. **Business:** No part of the quarrying or excavating operation shall be located closer than two hundred (200) feet to a Business Zone without the recorded consent of such affected landowners.

613.f General Provisions

1. In no case shall any use impede the flow of natural watercourses.
2. All uses which pollute natural watercourses shall be prohibited.
3. All uses which permit stagnant water to collect and remain in quarries or excavations shall be prohibited.

614 REGULATIONS GOVERNING ADULT ORIENTED ESTABLISHMENTS

Adult-oriented establishments will not be granted Special Exception approval within 1000 feet of any school, daycare center, church, or any location with a Pennsylvania Liquor Control Board license, nor within 500 feet of a residential zone or use. Road access, hours of operation, buffer zones and screening requirements, parking and lighting requirements, as well as restricted signage are all conditions the Board may place upon the issuance of a Special Exception Permit. The applicant shall provide certification that all owners, agents, servants and employees have not been convicted of any crime contained in 18 Pa.C.S.A. §§3101-3126, inclusive, nor of §§5903, 6301, 6312, or 6319 in Pennsylvania or any other jurisdiction. Such certification shall be supplied every six (6) months for so long as the use continues. Failure to provide such certification, or provision of an inaccurate certification shall result in the denial or revocation of the Special Exception Permit. Furthermore, any jury determination, judicial determination, or stipulation that establishes that a violation of 18 Pa.C.S.A. §5903 has occurred on the premises shall permit the Zoning Officer to revoke the Special Exception Permit, whether or not an appeal is pending.

615 REGULATIONS GOVERNING COMMUNICATIONS ANTENNAS AND COMMUNICATIONS EQUIPMENT BUILDINGS

Communications Antennas shall not be mounted on any residential structure. *Communications Antennas* shall not exceed the height limitations of the district by more than twenty feet (20'). Omnidirectional or whip *Communications Antennas* shall not exceed twenty feet (20') in height or seven inches (7") in diameter. Directional or panel *Communications Antennas* shall not exceed five feet (5') in height or three feet (3') in width. Any applicant proposing a *Communications Antenna* to be mounted on a building or other structure (including a Communication Tower) shall submit a copy of an executed Agreement between the property owner and / or communication tower. If it is to be located on a communication tower, this Agreement must be between the communication antenna owner, property owner, and communication tower owner. The Agreement must be recorded at time of applying for Zoning Permit at the Fayette County Recorder of Deeds office. A copy of the FCC license must also be exhibited upon demand at any time and failure to do so will result in revocation of the Zoning Permit.

616 REGULATIONS GOVERNING COMMUNICATIONS TOWERS

Permits for the construction of a *Communication Tower* will only be approved by the Zoning Officer on the application as provided by the Zoning Officer, after a public hearing is conducted by the Zoning Hearing Board. The applicant must provide documentary evidence and certifications that the proposed tower will comply with all FCC and Federal Aviation Administration (FAA) standards and regulations. No tower shall be erected "within one nautical mile of an aviation facility without the recorded consent of the owner of such facility. The approved consent is be recorded at the Fayette County Recorder of Deeds office by the developer. Applicants must demonstrate that a good faith effort has been made to obtain permission to mount the communication antenna proposed on an existing structure. The setback requirements in a circle around the base of an existing structure.

The setback requirements on a circle around the base of a Communications Tower shall be equal to the front yard setback requirements for the district plus the height of the tower. The base of the Communication Tower shall be fenced and screened. No Communication Tower shall be permitted within one-half mile of a property listed on the National Register of Historic Places unless a waiver is provided from the PA Historical

Museum and Commission in the form of an executed Agreement between the PA Historical Museum and commission, the property owner of the historic structure/site/property that is listed. The property owner of where the Communication Tower is to be erected, and the owner of the Communication Tower. This Agreement is to be recorded in the Fayette County Recorder of Deeds office by the developer.

617 LEGALLY PERMITTED STRUCTURE

If a structure, building, etc., hereinafter "structure" is damaged or destroyed through no fault of and beyond, control of, the owner of said structure and said structure had been previously approved/permited pursuant to the then adopted zoning/subdivision/land development ordinances of the Township of Wharton, then the said owner may reconstruct/rebuild said structure without the necessity of submitting land development plan as long as:

1. The said owner both applies for a zoning permit and commences reconstruction/rebuilding with one (1) year of the date of damage/destruction, and
2. Reconstruction / rebuilding shall occur upon the same footprint (or less area) than the original structure; and,
3. The use of the new structure shall be the same as the damaged/destroyed structure; and
4. The said owner must provide a copy of previously approved and recorded land development plan or conclusive proof otherwise of the damaged/destroyed structure's size, location, parking area, etc. Such conclusive proof shall be submitted to the township for review by the Township Engineer and Planning Commission. Based on this review, the Planning commission shall provide comments to the Board of Supervisors for final action. This does not exempt a property owner from complying with any other local, county, state or federal ordinances and /or/laws.

618 RECREATIONAL FACILITY RESORT

Recreational Facility, Resort- A conditional use for single family and multi-family dwellings, within the confines of a Recreational Facility, Resort, as defined in Article II Section 202:

- The following is the minimum requirements to submit for consideration of a high density residential development, for the intended purpose of the sale or lease of residential units, within the confines of a Recreational Facility, Resort:
 - o The development shall meet the definition of Recreational Facility, Resort.
 - o The overall development shall contain at least 15% each of the three land use types as outlined at Article V. Section 504.e.4 of this ordinance, said dwelling types being Single Family Dwelling (Small Lot), Single Family Dwelling (Large Lot) and Multi-Family Dwelling (Duplex, Triplex, Quad).
 - o The development shall cluster residential dwellings while maintaining common open space throughout the entire development.
 - o The development shall meet the requirements of creating a Homeowner's Association or Property Owner's Association for ownership and maintenance of the common open space.
 - o The development shall be served by public water and sewerage or a community system as approved by the Department of Environmental Protection. There shall be no well water or on- lot septic systems permitted for this type of high density development.

- Impact Analysis

- o An Impact Analysis is required to be submitted by all Developers to address the environmental impact as well as community impact.
- o The Impact Analysis shall include, at a minimum:
 - Statement of Development and how the proposed Development is consistent with the adopted Wharton Township Comprehensive Plan.
 - Evaluation of the impact of the Development upon the drainage and aquifer systems, including exhibits depicting existing streams, ponds, lakes, wetlands, groundwater recharge areas, flood plains and areas of permanent or seasonal high water tables and proposed modifications or alternatives to such features or areas.
 - Evaluation of suitability of soils present throughout the site, as applicable, for the Development, home site locations with basements, lawns, and landscaping, and streets and parking lots.
 - A compilation and analysis relative to the effect of the Development with respect to the impact upon existing and proposed public facilities, utilities, and roadway systems.
This includes a compilation and analysis of the costs to the Township and the projected revenue in comparison with existing conditions and anticipated conditions of the Development.
 - A statement describing the natural features of the tract including, but not limited to, an analysis of the hydrology, geology, soils, topography, and vegetation and such plans as are necessary to illustrate existing features.
 - A listing of all proposed dwelling unit types, approximate square footage, and structure types; a listing of all non-residential structures with approximate square footage.
 - A description of the use and improvement of common open space throughout the Development and the means by which the landowner will guarantee its continuity and maintenance.
 - The plotting of all existing landmarks within the Development including the location of all existing streets, buildings, easements, rights of way, sanitary sewers, water mains, storm drainage structures, and watercourses.
 - The ratio of vehicle parking spaces to dwelling units proposed, which shall be a minimum of two spaces per dwelling unit.
 - A statement describing proposed lighting, sewerage, water, electric, gas, telephone, cable, television, and refuse removal.
 - Detail the planning for the infrastructure (water and sewer) to be provided to the Development. Provide letter from an authority on its intent to provide service, the general location of mains and service laterals, what improvements are required to off-site infrastructure to service the Development and conditions for easements.
 - A traffic impact study in accordance with both PennDOT and Wharton Township regulations. The proposed on and off-site traffic improvements which are coordinated with the project phasing plan shall be prepared and submitted as part of the traffic impact study.
 - A master storm water management plan and report which demonstrates the overall storm water management concept of the Development. Preliminary design of the proposed major facilities and off-site improvements shall be described in sufficient detail as to ascertain their feasibility and general compliance with applicable standards (Wharton Township Storm Water

Management Ordinance and the Fayette County Storm Water Management Plan).

- A master landscaping plan depicting the principal landscape plantings.

- Environmental Considerations

- o The developer shall take precautions to preserve the natural site amenities and to minimize the disturbance to the natural environment.
- o The development will be designed and programmed so as to minimize earth moving activity, erosion, tree clearance and destruction of natural amenities.
- o Seeding, sodding, and other planting shall be applied to stabilize topsoil.
- o Erosion control measures such as minimizing the area of exposed soil, mulching, building silt catchment basins and planting temporary ground cover shall be instituted as necessary.

- Site Conditions

- o All dwelling units shall be designed with regard to topography and natural features.
- o Streets shall be designed in conformance with the standards and specifications of the Wharton Township Subdivision and Land Development Ordinance.
- o Street lights shall be in conformance with the standards and specifications of the Wharton Township Subdivision and Land Development Ordinance.
- o Ingress, egress and internal traffic circulation shall be designed to ensure safety and permit access by emergency vehicles.
- o The developer shall preserve common open space in the development. Common open space may be improved for intended use or may be left unimproved to preserve the natural features.
- o The developer shall provide a management plan outlining who will own and maintain common open space and open space. Said plan must be approved by the Township Planning Commission and Board of Supervisors.
- o The developer shall include a plan for the management of storm water runoff which will result from the development. The method of storm water management and the design of the proposed facilities and/or methods shall be in accordance with municipal and state regulations and be subject to approval by the Township engineer.

- Homeowners Association (Property Owner Association) Formed

- o All developments/developers shall establish an organization for ownership, operation and maintenance of common open space, utilities and other such amenities of common interest and ownership.
- o The developer shall provide a description of the homeowners' association including its bylaws and methods for maintaining the common open space.
- o The homeowners' association shall be organized by the developer and operating with financial subsidization by the developer, before the sale of any lots within the development.
- o Membership in the homeowners' association shall be mandatory for all purchasers of homes therein and their successors. The conditions and timing of transferring control of the homeowners' association from the developer to the homeowners shall be identified.
- o All land not sold or to be developed will be shown on the final plan as 'common open space'.
- o The homeowners' association shall be responsible for maintenance and insurance on common

open space land, enforceable by liens placed by the homeowners' association. Maintenance obligations also may be enforced by the Township at the discretion of the Board of Supervisors. Any governmental body with jurisdiction in the area where the development is located may place liens on the owners of the common space to collect unpaid taxes.

- o The members of the homeowners' association shall share equitably the costs of maintaining and developing such common open land. Shares shall be defined within the Homeowners Association declaration of bylaws. Homeowners' association dues shall be structured to provide for both annual operating costs and to cover projected long range costs relating to the repair of any capital facilities (which shall be deposited in a sinking fund reserved for just such purpose).
 - o In the event of a proposed transfer of common open space land by the homeowner's association, or of the assumption of such maintenance of such land by the Township, notice of such action shall be given to all property owners within the development and to the Township Supervisors.
 - o Homeowners' association documentation demonstrating compliance with the provisions herein shall be filed with the final subdivision and land development plans. At the time of preliminary plan submission, the Applicant/Developer shall provide a draft homeowners' association documentation with sufficient detail to demonstrate compliance with this section. The Township, at its discretion, may require the Homeowners Association bylaws to be recorded with the final plan in the Fayette County Office of Recorder of Deeds.
 - o All docents are subject to review and approval by the Township Solicitor and Board of Supervisors.
- Construction, Dedication, and Maintenance of Improvements
 - o After landowner/developer obtains the required permits, other applicable Township and/or Municipal Authorities approval and posts the required bond(s), construction can commence.
 - o A bond in the amount equal to 110% of the contract/engineers estimate shall be required to insure completion of the improvements. The Developer shall comply with the Wharton Township Subdivision and Land Development Ordinance Article III Section 305, Completion of improvements or Guarantee Thereof Prerequisite to Final Plan Approval.
 - o The Township and/or Municipal Authority and/or Utility Company shall inspect the improvements that are subject to their jurisdiction.
 - o The Township shall release financial security, which shall be posted to secure the completion of improvements, only upon substantial completion as determined by the Township Supervisors. The bond will be released as per the procedures listed in Section 306 of the Subdivision and Land Development Ordinance.
 - o All required improvements that have been offered for dedication shall be deemed to be private until such time as the improvements have been completely constructed and are accepted by the Township, Municipal Authorities, and/or Utility Company, as applicable.
 - Common Open Space
 - o The common open space shall be so dedicated or otherwise preserved and maintained as so to remain open and available to use by the residents of the development area.

- o Common open space may include areas devoted to storm water management facilities. Recreational facilities and structures located in the common areas shall be considered common open space.
- o The common open space shall be established by deed restricted private ownership which shall prevent development of the common open space, provide for its maintenance and protect the rights of owners or occupants of the dwelling units of the development to use and enjoy such common open space in perpetuity.
- o The common open space shall be contiguous to the proposed housing units.
- o Methods of Ownership: The land and facilities to be used for common open space shall be conveyed/dedicated in accordance with either of the two methods set forth below, as determined by mutual agreement by the Developer and Board of Supervisors:
 - The land and/or facilities shall be conveyed to an organization established for the ownership and maintenance of the common open space; and/or
 - The land and/or facilities shall be dedicated for public use to the Township, and the Township agrees to operate and maintain the dedicated land and facilities for the originally intended use as common open space.
- o The organization shall covenant to operate and maintain the land and facilities as a common open space; such organization shall not be dissolved nor shall it dispose of the common open space, by sale or otherwise (except to an organization conceived and established to own and maintain the common space as approved by the Board of Supervisors).
- o Prior to commencing with the common open spaces, a bond shall be required/posted in an amount to be determined by the Board of Supervisors to ensure proper construction and maintenance of the common open spaces. The bond will remain posted until such time as the Homeowners Association takes full responsibility for maintenance, which is included in accordance with the procedures and requirement contained within the deed of property and recorded documents related to the said development, which includes the Homeowners Association. The Township shall not be obligated to accept the dedication to the Township of the common open space or any portion thereof, if the Board of Supervisors determines that such dedication is not in the interest of the Township.
- o Failure to Maintain Common Open Space
 - In the event the organization or any successor organization (as approved by the Board of Supervisors) established to own and maintain the common open space shall at any time fail to maintain the same in accordance with the development plan and in reasonable order and condition, the Township shall have the right to maintain the same and recover from the bond a sufficient amount to cover the costs of such maintenance and/or lien against the properties within the development that have the right of enjoyment of the common open space pursuant to the authority in accordance with the procedures and requirement contained within the deed of property and recorded documents relating to the said development, the Township's adopted ordinance and policies and the Board of Supervisors approval of the development.

- Procedure for Review

- o The developer is required to submit the following:
 - Overall Master Site Plan

- The development may be phased as indicated on the Overall Master Site Plan
 - Impact Analysis, as regulated in Article VI Section 617
 - The Impact Analysis shall address the entire Development and not a particular phase.
 - Review fee as set by the Board of Supervisors.
- o The Planning Commission, Township Engineer, and Township Solicitor will review the documents and provide recommendation to the Board of Supervisors. The Planning Commission shall provide an opinion on each document submitted.
- The intent of the requirement of an Impact Analysis is to confirm no negative impact in the community, adjoining property owners, and the environment as a result of the Development.
 - If accepted by the Board of Supervisors, the Developer shall proceed to meet the requirements of the Conditional Use (Supplemental Regulations) and the Subdivision and Land Development Ordinance.
 - If the developer chooses to request approval to change the overall master site plan, as originally accepted by the Board of Supervisors, the Board of Supervisors may require, at their discretion, for the developer to submit an entirely revised master development plan and an update of the impact analysis.

ARTICLE VII - OFF-STREET PARKING AND LOADING

701 OFF-STREET PARKING

701.a In all Districts, off-street parking spaces shall be provided as set forth in the following table whenever any building is erected or enlarged. Such spaces shall have an area of at least 200 square feet, with minimum dimensions of 10' x 20', and shall have adequate and well-designed ingress and egress and shall be located on the same lot as the use to which they are accessory. Off-street parking area does not include the public right-of-way.

701.b As a special exception, required parking may be located on another lot which is reasonably convenient and accessible to the principal use.

701.c Regulations for off-street parking spaces:

Type of Use	One Space for Each:
offices, retail businesses, service establishments	300.0 square feet of floor area
restaurants, taverns, night clubs	2.5 seats
Professional offices, clinics	0.2 professional person, unless applicant can satisfactorily demonstrate a need for fewer spaces, but in no case, less than 5 spaces
motels	sleeping room, and 1 for each employee
hotels	steeping room and 1 for each employee
theaters, auditoriums	3.5 seats
elementary and secondary public and parochial schools	15.0 classroom seats and 1 for each employee
colleges, universities, commercial schools	5.0 classroom seats and 1 for each
employee social halls, clubs, lodges	200.0 square feet of floor space
bowling alleys	0.5 alleys
hospitals	2.0 beds

residential dwellings	.5 dwelling unit
funeral homes	5.0 seats based on maximum capacity
rooming houses, dormitories	2.0 beds
manufacturing plants, laboratories	3.0 employees (b) (c)
wholesale establishments, warehouses	2.0 employees (b)
nursing homes	4.0 beds
churches	10.0 seats
recreational Facilities	1: 250 S.F. of G.F.A. indoor + 1: 500 S.F. of public outdoor accessible facility
cemeteries	1: 500 S.F. of G.F.A. of office + 1: employee on peak shift
Campground (public/private)	1: campsite + 1: employee on peak Shift + 1: 3 camping sites for visitor parking
Duplex/Quadplex	2: D.U.
Apartment	2: D.U. + 1:4 D.U (for guest)
Gas Station	1: 500 S.F. of G.F.A. + 1 employee on peak shift
Automotive Repair	1: 1,000 S.F. of G.F.A. + 1: employee on peak shift
Day Care, Adult/Child	1: 6 patrons + 1: employee on peak shift
Mineral Extraction, Mining and Similar Uses	1: employee on peak shift
Place of Worship	1: 4 seats

Notes:

- (a) The table setting forth regulations for off-street parking spaces applies only to new construction and to the enlarged sections of any additions.
- (b) Plus one additional space for each 1,000 feet of floor area.
- (c) In no case shall the total parking area be less than twenty-four percent (24%) of the floor area.

702 OFF-STREET LOADING AND UNLOADING SPACE

All commercial and industrial establishments shall provide loading and unloading and commercial vehicle storage space adequate for their needs. This required space will be provided in addition to established requirements for patron and employee parking. In no case where a building is erected, converted, or enlarged for commercial, manufacturing, or business purposes shall the public right-of-way be used for loading or unloading of materials. The minimum size loading space shall be sixty feet (60') in depth, twelve feet (12') in width, with overhead clearance of fourteen feet (14').

703 DEVELOPMENT OF PARKING AND LOADING SPACES

All off-street parking and loading areas shall conform to the following: unless a variance is granted:

703.a Off-street parking and loading lots may be developed on any required side, front, or rear yard, but not closer than fifteen feet (15') to any street pavement.

703.b They shall be arranged for the orderly and safe movement, loading, parking, and storage of vehicles.

703.c Exit and entrance driveways or access points shall not exceed twenty-five feet (25') in width (plus any radius curves joining the street and driveway) and wherever practical shall not occupy the full frontage on the streets, alleys, or other rights-of-way from which they derive their access, but shall be limited to well defined points, and shall be so designed as to provide maximum safety for other adjoining or nearby uses.

703.d All off-street parking areas which provide more than five (5) parking spaces shall be screened from any abutting property used for residential purposes.

703.e Any lighting used to illuminate any off-street parking shall be so arranged as to reflect the light away from adjoining premises and public rights-of-way.

704 PRIVATE PARKING AREAS AND GARAGES

Accessory off-street parking areas or garages serving the residential or nonresidential parking demand created by the principal building are permitted in accordance with Section 701. Parking areas may be located in any required front, side, or rear yard.

ARTICLE VIII - SIGNS

801 PERMITTED PERMANENT SIGNS

801.a Subject to the other provisions of this Section, and all applicable state laws, only the following types of permanent signs are permitted throughout the Township.

1. P-1: all signs and signals owned and operated by the Township.
2. P-2: identification signs for public and for semipublic facilities, such as schools, churches, hospitals, libraries, clubs, and public utilities.
3. P-3: nameplates identifying the owner or resident of a private property, excluding mailboxes.
4. P-4: memorial or historical markers or tablets.
5. P-5: signs indicating the private nature of a road, driveway, or other premises, and signs controlling the use of private property, such as the prohibition of hunting or fishing.
6. P-6 directional signs
7. P-7 on-premises business signs
8. P-8 home occupation signs
9. P-9 off-premises advertising signs

801.b The following table sets forth the standards to which each of the permitted permanent sign types must conform.

Performance and Location Standards for Permanent Signs (dimensions in feet)									
Sign Type	P-1	P-2	P-3	P-4	P-5	P-6	P-7	P-8	P-9
maximum area per sign (ft. ²)	N/A	20	1	12	4	50	*A	3	100
maximum number of signs per lot	N/A	2	*B	1	N/A	2	*E	1	*D
minimum setback from public R.O.W.	2	*C	2	*C	*C	*C	*C	*C	*C
maximum total signage (ft. ²)	N/A	40	N/A	12	N/A	100	*F	3	N/A
Maximum ht. to top, sign freestanding	N/A	10	6	10	6	10	18	8	18
maximum projection from building face, attached parallel to face	N/A	1	1	1	1	1	1	1	1
districts permitted	All	All	All	All	All	All	All	All	B-1 B-2

Notes:

- *A. One hundred (100) square feet (in B-1 and B-2 zones), or two (2) square feet per linear foot of building front (in A-1, B-1, and B-2 zones), or four (4) square feet per acre of developed real estate (in B-1 and B-2 zones); whichever is greater.

- *B. One (1) per dwelling unit.
- *C. Two (2) feet, provided that no sign shall be permitted to interfere with a motorist's view of traffic except to the extent permitted by 67 Pa. Code, § 441.8(h) at driveway-to-road and road-to-road intersections.
- *D. Minimum three hundred (300) feet between signs along right-of-way.
- *E. Four (4) or one (1) per ten (10) acres, whichever is greater.
- *F. Two hundred (200) square feet (in B-1 and B-2 zones), or two (2) square feet per linear foot of building front (in A-1, B-1, and B-2 zones), or four (4) square feet per acre of developed real estate (in B-1 and B-2 zones); whichever is greater

801.c Off-premises advertising and directional signs not complying with the above limitations are a conditional use (see Section 805).

801.d All signs within 600 feet of U.S. Route 40 shall also comply with the "Outdoor Advertising Act of 1971," as amended, 36 P.S. § 2718.101 *et seq.*, and regulations promulgated thereunder.

801.e The words used in this article shall be interpreted as defined in 67 Pa. Code §445.2

802 PERMITTED TEMPORARY SIGNS

802.a Subject to other provisions of this section, only the following types of temporary signs are permitted throughout the Township.

1. T-1: signs identifying architects, engineers, contractors, tradesmen, or others engaged in construction work, on the premises wherein their work is proceeding. Such signs shall be removed as soon as the work ceases or is completed.
2. T-2 real estate signs, on individual properties that are for sale, rent, or lease, or which have been sold, rented, or leased. The former type shall be permitted for as long as the property remains for sale or rent, but the latter type shall be removed within a week of the date of the sale or rental agreement.
3. T-3 real estate sign similar to those described in 802.a.2, but located in housing developments or large acreage which include more than one house lot. Such signs shall be removed when ninety percent (90%) of the properties have been developed. Signs announcing proposed commercial or industrial development of the site may be erected for a maximum of one year.
4. T-4 signs advertising the temporary sale of products, when such sale is conducted in accordance with all the provisions of Township Ordinances. Such signs shall be displayed only when the products are on sale.
5. T-5 temporary directional signs for period not exceeding one week.

802.b The following table sets forth the standards to which each of the permitted temporary sign types must conform.

Performance and Location Standards for Temporary Signs (dimensions in feet)					
Sign Type	T-1	T-2	T-3	T-4	T-5
maximum area per sign (ft. ²)	20	6	32	6	2
maximum number of signs per lot	1'	2 ²	2 ³	2 ²	2 ³

Performance and Location Standards for Temporary Signs (dimensions in feet)					
minimum setback from public R.O.W.	25 ⁴		10 ⁴		25 ⁴ 10 2
maximum ht. to top. sign attached to building	building height				
maximum ht. to top, sign freestanding	10				-
maximum projection from building face, attached parallel to face	1				
districts permitted	all				

Notes:

1. For each trade.
2. Per lot.
3. Per development.
4. Or building face.

803 PROHIBITED SIGNS

803.a Signs of such a design and location that they interfere with, compete for attention with, or may be mistaken for, a traffic signal. This shall include any sign visible from the public right-of-way which uses an arrow device or the word "STOP." It shall also include signs in which the colors red and green are used either in direct illumination or in high reflection by the use of special preparations such as fluorescent paint or glass.

803.b Any sign located in or extending into a public right-of-way, except those owned or operated by a duly constituted government.

803.c Any freestanding sign within an area bounded by the intersection of two rights- of-way and points twenty feet (20') from such intersection along the rights-of-way, except directional signs less than three feet (3') in height.

803.d Freestanding signs in, on, or over a public sidewalk area.

803.e Flashing or oscillating signs.

803.f Signs attached perpendicular to any building, and projecting over the main traveled portion of a sidewalk or walkway.

803.g Signs erected upon or attached to the roof of any building.

804 GENERAL REGULATIONS FOR ALL SIGNS

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

804.b Overhead signs shall be at least nine feet (9') high, measured from the ground or pavement to the bottommost part of the sign.

804.c Advertising painted upon, or displayed upon, a barn or other building or structure shall be regarded as an advertising sign board and the regulations pertaining thereto shall apply.

804.d Each sign shall be removed by the permittee when the circumstances leading to its erection no longer apply.

804.e Permits shall be required for the erection, alteration, or maintenance of the following sign types: P-2, P-6, P-7, and P-9.

804.f Signs may be interior lighted with non-glaring lights, or may be illuminated by shielded floodlights or spotlights shielded so there is no direct light transmitted to other properties or public rights-of-way.

804.g Traffic signs shall be of an approved design.

805 SIGNS PERMITTED BY CONDITIONAL USE

Off-premises advertising and directional signs not complying with the limitations set forth in § 801 may be permitted as a conditional use, provided that no such sign shall be located in such a manner as to obstruct any motorist's view of oncoming traffic in any direction, or of any potential traffic hazard. And in no event shall any such sign be positioned or located less than ten feet (10') from any highway, road, street, or private access right-of-way line or less than one hundred feet (100') from all residential, public, or semipublic structures. It is further provided that the Supervisors may place any reasonable condition or limitation upon their approval.

The design and construction of all such signs, including aesthetic criteria, shall be subject to prior review of the Township Planning Commission, which shall make its recommendation to the Board of Township Supervisors prior to any approval or denial of any conditional use.

ARTICLE IX - ADMINISTRATION AND ENFORCEMENT

901 GENERAL PROCEDURE

901.a Persons desiring to undertake any new construction, structural alteration, development, or change in the use of a building or lot within any area of the Township shall apply to the Zoning Officer for a Zoning Permit by filling out the appropriate application form and by submitting the required fee. All Zoning Permit applications shall include a sketch plan demonstrating compliance with the setback and yard requirements and containing the applicant's verification that it is accurate.

901.b Any necessary sewage permit will be obtained and furnished to the Zoning Officer before any application for a Zoning Permit is filed. No Zoning Permit will be issued until this requirement has been met.

1. With respect to mineral extraction, the applicant shall include in the application an operations plan which shall include, at a minimum:
 - A. Ownership and acreage of the land proposed for use.
 - B. Type of mineral to be extracted or quarried.
 - C. Maximum depth of the proposed operation.
 - D. Location map at a scale of four hundred feet (400') to one inch (1") which shall show:
 - (i) the land area to be excavated or quarried with dimensions and the total property;
 - (ii) private access roads and abutting streets and highways;
 - (iii) abutting and/or adjacent districts and land uses;
 - (iv) existing watercourses and proposed alterations thereto;
 - (v) title, scale, north arrow, and date.
 - E. A description of the location, type, extent, methods, and time schedule for the proposed operations.
 - F. A description and a time schedule of the reclamation plan for the property.
 - G. A copy of the Pennsylvania Mining Operations Permit.
2. Any special exception permit issued by the Board for mineral extraction operations shall contain a condition that the permitted activity shall not commence until all permits required by the Department of Environmental Protection have been issued and copies thereof provided to the Zoning Officer.

901.c The Zoning Officer shall issue a Zoning Permit only after it has been determined that the proposed work to be undertaken will be in literal compliance with the requirements of this and all other applicable codes and ordinances, specifically including the Wharton Township Subdivision and Land Development Ordinance.

901.d If the Zoning Officer determines that the applicant has complied with the terms and conditions of paragraphs (b) and (c) of this Section, he will complete the review of the application and then either issue or deny the Zoning Permit, or refer the application to the Zoning Hearing Board or the Supervisors, whichever is appropriate.

901.e Upon receipt of the Zoning Permit by the applicant, and the conspicuous public posting of same, the applicant may proceed to undertake the action permitted by the Zoning Permit, and shall complete the permitted work in conformance with the requirements of the Zoning Permit. Any person aggrieved by the issuance or denial of any permit may appeal in accordance with the provisions of the MPC.

902 ZONING PERMIT TYPES AND ISSUANCE

902.a Zoning Permits: A Zoning Permit for a Permitted Use may be issued by the Zoning Officer on his own authority. Upon completion of the construction, or upon the change of use of any land, structure, or building, the Zoning Officer shall inspect the property to determine its compliance with this Ordinance.

902.b Special Exception Uses: A Zoning Permit for a Special Exception may be issued by the Zoning Officer upon the order of the Zoning Hearing Board after a public hearing held by the Board for the purpose of deciding upon the request for a Special Exception.

902.c Conditional Uses: A Zoning Permit for a Conditional Use may be issued by the Zoning Officer after review by the Planning Commission and with the approval of the Supervisors.

902.d Zoning Permit After an Appeal or a Request for a Variance: A Zoning Permit may be issued by the Zoning Officer upon the order of the Zoning Hearing Board and after a public hearing held by the Board for the purpose of deciding upon an appeal or a request for a variance.

902.e Certificate of Nonconforming Use: The lawful existence of a nonconforming use that pre-existed the passage of this Ordinance, or a relevant amendment thereto, may be certified by the Zoning Officer as set forth in §§601-602 hereof, after the Zoning Officer has obtained and attached to the Certificate the documentary evidence supporting its issuance, or the Zoning Hearing Board has conducted a hearing and made supporting factual findings.

903 ZONING PERMITS AND CERTIFICATES

903. a Special Exception, Conditional Use, Variance and Zoning Permits: The purpose of the zoning permit is to secure compliance with the provisions of this Ordinance, and no person shall erect or convert any structure, building, or part thereof, nor alter the use of any land or building, nor erect, alter, or maintain any sign, until a zoning permit has been issued by the Zoning Officer. All applications for zoning permits shall be in writing on forms to be furnished by the Zoning Officer. Zoning permits shall be issued in duplicate and one copy shall be kept posted conspicuously on the premises. The Zoning Officer or the Board may revoke a zoning permit at any time if it appears that the application is in any material respect false or misleading, that construction upon the premises differs materially from that called for in the zoning application, or that the occupancy of the premises is unlawful pursuant to the provisions of this Ordinance.

903.b Time Limit for Application: An application for a permit for any proposed work or use shall be deemed to have been abandoned six months after the date of filing, unless such application has been diligently prosecuted or a permit shall have been issued; except that reasonable extensions of time for additional periods not exceeding ninety (90) days each may be granted at the discretion of the Zoning Officer or Zoning Hearing Board.

903.c Expiration of Permit: A zoning permit issued under these regulations shall expire at the end of twelve (12) months.

903.d Certificate of Nonconforming Use: The owner of the premises occupied by a lawful nonconforming use or building may secure a Certificate of Nonconforming Use from the Zoning Officer if adequate documentary evidence of such use is produced and there is no known objection thereto. Otherwise, such Certificate shall be authorized by the Zoning Hearing Board only after a hearing thereon. In either case, such Certificate shall be for the purpose of insuring to the owner the right to continue such nonconforming use in accordance with the Constitution.

904 ZONING OFFICER

904.a Appointment of Enforcement Officer: A Zoning Officer shall be appointed by the Supervisors to administer and enforce this Ordinance. The Zoning Officer shall not hold any other office in the Township. The Zoning Officer shall demonstrate a working knowledge of municipal zoning law, and shall meet such other qualifications as may be established by the Township.

904.b Duties and Powers: The Zoning Officer shall receive and examine all applications required under the terms of this Ordinance and shall issue or refuse permits within thirty (30) days of the receipt of the properly completed application, along with all supporting documentation required by this Ordinance, or shall refer said application to the appropriate Township body. The Zoning Officer shall administer this Ordinance in accordance with its literal terms and shall not have the power to permit any construction or change of use which does not conform to the provisions of this Ordinance. When acting within the scope of his or her employment, the Zoning Officer shall have the power to institute and prosecute civil and criminal enforcement proceedings to enforce this Ordinance. The Zoning Officer shall keep and maintain records in the Township Building of applications, permits, variances, granted, inspections made, reports rendered, and notices or orders issued, and shall make all inspections required to administer and enforce this Ordinance. Where another permit, specifically including a sewage permit, is required for the proposed use, the Zoning Officer shall obtain and file a copy of such permit prior to the issuance of the Zoning Permit.

904.c Enforcement Notices: The Zoning Officer shall issue a written Enforcement Notice to any person, firm, or corporation violating any provision of this Ordinance. The Enforcement Notice shall contain the following information:

1. The name of the owner of record and any other person against whom the Township intends to take action.
2. The location, including tax map identification number, of the property in violation.
3. The specific violation with a description of the requirements which have not been met, citing in each instance the applicable provisions of this Ordinance.
4. The date before which compliance must be initiated, and before which each stage of compliance must be initiated, and the date before which compliance must be completed.
5. That the recipient of the notice has the right to appeal to the Zoning Hearing Board within thirty days in accordance with the procedures set forth in this Ordinance.
6. That failure to comply with the notice within the time specified, unless extended by action of the Zoning Hearing Board, constitutes a violation, with the possible sanctions clearly described.

905 ZONING HEARING BOARD

905.a Board is Hereby Created: The Supervisors have created and hereby continue the existence of the Wharton Township Zoning Hearing Board consisting of three members who shall be residents of the Township. The existing Board shall continue under the procedures stated herein.

At no time is there to be any more than three member's casting vote on proceedings before the Zoning Hearing Board. If there are more than three members seated during proceedings, the Chairman shall designate at the start of the public hearing those three members (those casting the vote) who will be rendering the decision at the conclusion of the public hearing.

905.b Appointment of Members: Members of the Board and their successors shall be appointed on the expiration of their respective terms, to serve three (3) years. An appointment to fill a vacancy shall be only for the unexpired portion of the term. Members shall hold no other office in the Township.

905.c Appointment of Alternate Members: The Board of Supervisors shall appoint by resolution at least one, but no more than three, resident(s) of the Township to serve as alternate members of the Zoning Hearing Board. The term of office of an alternate member shall be three (3) years. When seated, an alternate shall be entitled to participate in all proceedings and discussions of the Zoning Hearing Board to the same extent as regular members, including specifically the right to cast a vote during the proceedings. Alternate members shall hold no other office in the Township.

When an alternate member is called upon as a voting member of the Board (as designated by the Chairman at the start of a public hearing), the alternate is entitled to participate in all proceedings and discussions of the Zoning Hearing Board to the same extent as regular members, including specifically the right to cast a vote at the conclusion of the public hearing.

905.d Participation by Alternate Members: If, by reason of absence or disqualification of a member, there exists a vacancy on the Zoning Hearing Board for a particular matter, the remaining regular members shall designate as many alternate members as necessary to constitute a full panel. Any alternate so designated shall serve in all proceedings involving the matter for which the alternate as originally designated until a final determination is made. Designation of alternates shall be made in rotation according to declining seniority among all alternates.

- 905.e Jurisdiction of the Board:** The Zoning Hearing Board shall have exclusive jurisdiction to hear and decide the following matters:
1. Substantive challenges to the validity of any land use ordinance, except curative amendments brought before the Supervisors.
 2. Challenges to the validity of a land use ordinance raising procedural questions or alleged defects in the process of enactment, which challenges shall be raised by an appeal taken within thirty (30) days after the enactment of the Ordinance.
 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 therefor, the issuance of any Enforcement Notice or the registration or refusal to register any nonconforming use, structure or lot.
 4. Appeals from a determination with reference to the administration of any flood plain ordinance, or the flood plain provisions of this Ordinance or the Wharton Township Subdivision and Land Development Ordinance.
 5. Applications for variances from the terms of this Ordinance.
 6. Applications for special exceptions under this Ordinance.
 7. Appeals from the Zoning Officer's determinations under Section 916.2 of the Municipalities Planning Code.

905.f Referral to the Commission: The Board may refer to the Wharton Township Planning Commission all applications for Special Exceptions, and any other applications or appeals which in the opinion of the Board require review by the Commission. In its review, the Commission shall determine compliance with the standards set forth in this Ordinance and, in all cases, shall report in writing its findings and recommendations to the Board within thirty (30) days.

906 VARIANCES

The Board shall hear requests for variances where it is alleged that the provisions of the Zoning Ordinance inflict unnecessary hardship upon the applicant. Subject to the provisions of the Municipalities Planning Code, 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 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 the Zoning Ordinance in the neighborhood or district in which the property is located.

- (b) That because of such physical circumstances or conditions, there is no reasonable possibility that the property can be developed in strict conformity with the provisions of the Zoning Ordinance and that 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 appellant.
- (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.
- (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.
- (f) In an identified flood plain area (F-1 zone) a variance, if granted, shall involve only the least modification necessary to provide relief. If it should become necessary to grant any variance, the applicant shall be required to comply with all applicable requirements of the National Flood Insurance Program Regulations (§60.3(a) and (b)) including the requirements for elevation, flood-proofing, and anchoring. The applicant must also comply with any other requirements considered necessary by the Township.
- (g) In granting any variance, the Board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of this Ordinance

907 APPEALS AND PUBLIC HEARINGS

907.a Appeal From a Decision of the Zoning Officer: Any person or official of the municipality aggrieved or affected by any provision of this Ordinance or by any decision, including any order to stop, cease, and desist issued by the Zoning Officer, may appeal. Such appeal shall be taken within a reasonable time as provided by the rules of the Board by filing with the Zoning Officer and with the Zoning Hearing Board, a notice of appeal specifying the grounds therefor.

907.b Time Limitations: No person shall file any proceeding before the Zoning Hearing Board later than thirty (30) days after a preliminary or final application for development has been approved by an appropriate Township officer, agency or body of such proceeding is intended to secure reversal or to limit the approval in any manner, unless such person proves that he had no notice, no actual knowledge, and no reason to believe that such application had been approved. If such person succeeds to his interest after such approval, he shall be bound by the notice and knowledge of his predecessor in interest. The failure of anyone, other than the developer, to appeal from an adverse decision by the Zoning Officer on a challenge to the validity of an ordinance or map filed pursuant to Section 916.2 of the Pennsylvania Municipalities Planning Code (MPC) shall preclude an appeal from a final approval except in the case where the final submission differs materially from the preliminary approval.

All appeals from determinations adverse to the landowner or developer shall be filed within thirty days after written notice of the determination is mailed or otherwise issued.

907.c Expiration of Appeal Decision: Unless otherwise specified by the Board, a decision on any appeal or request for a variance shall expire if the applicant fails to obtain any necessary Zoning Permit, or to comply with the conditions of said authorized permit within twelve (12) months from the date of the authorization thereof.

907.d Appeal from Decision of Board: Any appeal from a decision of the Zoning Hearing Board shall be made to the Court. In case of an appeal from the Board to the Court of Common Pleas, the Board shall make the return required by law, and shall promptly notify the Solicitor to the municipality of such appeal and furnish him with a copy of the return, including transcript of testimony. Any order of the Board not appealed within thirty (30) days shall be final.

907.e Stay of Proceedings: Upon the filing of any proceeding and during its pendency before the Board, all land development pursuant to any challenged Ordinance, order or approval shall be stayed unless the Zoning Officer certifies to the Board facts indicating that such stay would cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board or by the Court of Common Pleas on petition after notice to the Zoning Officer. When an application for development has been approved and proceedings intended to reverse or limit the approval are filed with the Zoning Hearing Board, the applicant may petition the Court of Common Pleas to order the contestants to post adequate bond as a condition to continuing the proceedings before the Board.

907.f Time for Filing of Appeals: All appeals from decisions rendered by the Zoning Hearing Board shall be taken to the Fayette County Court of Common Pleas and must be filed within thirty (30) days after the entry of the decision or, in the case of a deemed decision, the giving of the notice of the said deemed decision.

907.g Hearing Fees: Within the limits of funds appropriated by the Supervisors, the Zoning Hearing Board may employ secretaries, clerks, legal counsel or consultants.

The Supervisors may prescribe reasonable fees with respect to hearings. Fees may include compensation for the secretary and members of the Zoning Hearing Board, notice and advertising costs and necessary administrative overhead. Fees shall not include legal expenses of the Board, nor engineering, architectural, nor other technical consultants, nor expert witness fees.

907.h Stenographer's Fees: The Board shall cause a stenographic record of the proceedings to be kept, and a transcript of same and copies of any exhibits shall be made available to any party at cost. The appearance fee of the stenographer shall be split equally by the appellant and the Board.

907.i Information Required on Appeals to the Board: All appeals from a decision of the Zoning Officer and applications to the Board shall be in writing on forms prescribed by the Board. Every appeal or application shall include the following:

1. The name and address of the applicant or appellant.
2. The name and address of the owner of the land to be affected by such proposed change or appeal.
3. A brief description and location of the land to be affected by such proposed change or appeal.
4. A statement of the present zoning classification of the land in question, the improvements thereon, and the present use thereof,
5. A statement of the section of this Ordinance under which the appeal is made, and reasons why it should be granted, or a statement of the section of this Ordinance governing the situation in which the alleged erroneous ruling is being appealed, and the reasons for this appeal.
6. A reasonably accurate description of the present improvements, and the additions or changes intended to be made under this application, indicating the size of such proposed improvements, material, and general construction thereof. In addition, there shall be attached a plot plan of the real property to be affected, indicating the location and size of the lot and size of improvements thereon, and proposed to be erected thereof.

907.j Public Hearings to be Held by Board: Upon filing with the Board of an appeal or a request for a variance as required by the terms of this Ordinance, or for such other purposes as provided herein, the Board shall fix a reasonable time for a public hearing and give public notice thereof, as well as due notice to the parties in interest. Said public hearing shall be held within sixty (60) days of the filing date of the application or appeal invoking the jurisdiction of the Zoning Hearing Board, unless the applicant has agreed in writing to an extension of time.

The Board shall render a written decision within forty-five (45) days after the hearing, or if said hearing is continued, within forty-five (45) days after said continued hearing. If the Zoning Hearing Board does not make a decision within forty-five (45) days after the hearing, or if said hearing is continued, within forty-five (45) days after said continued hearing it shall be deemed that such Board has decided in favor of the applicant, unless the applicant has agreed, in writing or on the record, to an extension of time.

When a deemed decision is made, the Zoning Hearing Board shall give public notice of said decision within ten (10) days. If the Board fails to give such notice, the applicant may do so. Nothing herein shall prevent the appeal of a deemed decision.

908 SPECIAL EXCEPTIONS

The Zoning Hearing Board shall have the authority to hear and grant or refuse only such Special Exceptions to the terms of this Ordinance as are specifically authorized by the terms of this Ordinance. The granting of a Special Exception shall be subject to the following conditions and guiding principles:

- (a) Such use shall be one which is specifically authorized as a Special Exception Use in said District.
- (b) Such permits shall only be granted subject to any applicable conditions and safeguards as required by this Ordinance.
- (c) Such permit may be granted subject to additional reasonable conditions and safeguards as may be deemed by the Board to be advisable and appropriate.
- (d) The violation of any condition imposed upon the grant of a Special Exception by the Zoning Hearing Board may be remedied or enforced as if it were a direct violation of a provision of this Ordinance.
- (e) Such use shall be found by the Board to be in harmony with the general purpose and intent of this Ordinance.
- (f) The Board is specifically empowered to impose such conditions upon the grant of any Special Exception as to insure that the use shall not adversely affect the character of the District, nor the conservation of property values, nor the health and safety of residents or workers on adjacent properties and in the general neighborhood. Such conditions may include modified setbacks, screening or safety fencing; limits on nuisances in the form of light, sound, fumes, airborne particulates, and traffic; and limits on hours of operation. The Board's authority shall only be pre-empted where state or federal law clearly specifies that the subject is comprehensively regulated by a state or federal agency, such agency has assumed jurisdiction, and the agency provides documentation that the applicant is in full compliance with such regulation.
- (g) Such use shall be such appropriate size and so located and laid out in relation to its access streets that vehicular and pedestrian traffic to and from such use will not create undue congestion or hazards prejudicial to the general neighborhood.
- (h) Abutting property owners shall be notified of the application and the hearing date.
- (i) Uses shall meet the provisions and requirements of the Wharton Township Subdivision and Land Development Ordinance, as amended.
- (j) Should the applicant fail to obtain the necessary permits within twelve (12) months period, or, having obtained the permit, should he fail to commence work thereunder within such twelve (12) months period, it shall be conclusively presumed that the applicant has waived, withdrawn, or abandoned his application, and all permits granted to him shall be deemed automatically rescinded by the Board.

909 AMENDMENTS

The Board of Supervisors may from time to time, after public notice and hearing as hereinafter prescribed, amend, supplement, change, or repeal this Ordinance, including the Zoning Map. Any amendment, supplement, change, or repeal may be initiated by the Township Planning Commission, the Board of Supervisors, or by a petition to the Board of Supervisors. Such amendment, supplement, change, or repeal shall be submitted to the Township Planning Commission and to the County Planning Commission at least thirty (30) days before the Supervisor's public hearing on the proposal for their recommendations. In reviewing any such proposal, the Township Planning Commission shall make a specific recommendation as to whether or not it is in compliance with the Wharton Township Comprehensive Plan, and whether or not a change in the Comprehensive Plan is necessary or desirable.

909.a Curative Amendment Initiated by Landowner: When a landowner desires to challenge on substantive grounds the validity of the Ordinance or Map or any provision thereof which prohibits or restricts the use or development of land in which he has an interest, he may submit a curative amendment to the Board of Supervisors with a written request that his challenge and proposed amendments be heard and decided as provided in Sections 609.2 and 1004 of the Pennsylvania Municipalities Planning Code, as amended.

909.b Procedure for Petition: The petition for amendment, supplement, change, or repeal of any provision of this Ordinance shall be made upon a designated Township form, shall contain as fully as possible all relevant information, and shall be signed by at least one record owner of the property in question whose signature shall be notarized attesting to the truth and correctness of all the facts and information presented to the Wharton Township Zoning Officer for review and distribution.

An application fee shall be paid by the petitioner at the time of submission of the application or petition. The amount of the said fee shall be set from time to time by resolution of the Board of Township Supervisors and shall be sufficient to defray the costs of the proceedings prescribed herein.

The Township Zoning Officer shall present the completed petition or application to the Board of Township Supervisors at the next regularly scheduled meeting of the Board following the submission and shall present a copy of the said petition or application to the County and Township Planning Commissions for their review at their next regularly scheduled meetings following the submission of the petition. The Board of Township Supervisors shall hold a public hearing thereon, pursuant to public notice, in accordance with Section 908 of the MPC within no more than sixty (60) days from the date of submission to the Board's regularly scheduled meeting, above. The curative amendment shall be submitted to the County and Township Planning Commissions at least thirty (30) days before such public hearing for review and comment.

1. An application for a change of district to "A-1," "R-1," "R-2," "B-1," or "C-1" shall only be approved if it avers that the property requested to be so rezoned consists of a minimum of five (5) acres. If the area requested to be rezoned consists of more than one (1) parcel of land, said area shall be contiguous exclusive of any streets or easements.

2. An application for a change of district to "B-2" shall only be approved if it avers that the property requested to be rezoned consists of a minimum of ten (10) acres. If the area requested to be rezoned consists of more than one (1) parcel of land, said area shall be contiguous exclusive of any streets or easements.
3. The requirements of 1 and 2 above may be waived, at the discretion of the Township Supervisors, if the application for change requests an extension of an existing zone. No such change shall be considered to be an extension of an existing zone unless the portion to be extended is contiguous to the existing zone.

909.c Evaluating Merits of Curative Amendment: The Board of Supervisors shall consider the curative amendment and written and graphic materials submitted by the landowner and shall also consider:

1. The impact of the proposal upon roads, sewer facilities, water supplies, schools and other public service facilities;
2. The impact upon regional housing needs, and if applicable, the effectiveness of the proposal in providing housing units of a type actually affordable by persons otherwise unlawfully excluded by the challenged provisions of this Ordinance;
3. The suitability of the site for the intensity of use proposed by the site's soils, slopes, woodlands, wetlands, flood plains, aquifers, natural resources, and other natural features;
4. The impact upon the site's soils, slopes, woodlands, wetlands, flood plains, aquifers, natural resources and natural features, the degree to which these are protected or destroyed, the tolerance of the resources to development and any other adverse environmental impacts; and
5. The impact on the preservation of prime or other agricultural land and other land uses which are essential to public health and welfare.

909.d Declaration of Invalidity by the Court: If the Township does not accept a curative amendment and a Court subsequently reverses the Township, such reversal shall not cause invalidity of this entire Ordinance, but only of those provisions specifically affected by the Court's ruling.

909.e Public Hearing and Enactment: Before enacting any amendment to this Ordinance, the Supervisors shall hold a public hearing pursuant to public notice. Where a proposed amendment involves the rezoning of a parcel or parcels of land, five public notices shall be prominently posted on the perimeter of the parcel or parcels for at least seven (7) days immediately preceding the hearing.

If substantial changes are made to the proposed amendment before passage, another public hearing as set forth above shall be held before the changed amendment is enacted.

A certified copy of the amendment shall be forwarded to the County Planning Commission within thirty (30) days after enactment.

910 ENFORCEMENT NOTICE: If it appears to the Township that a violation of this Ordinance has occurred, the Township Zoning Officer shall initiate enforcement proceedings by sending an enforcement notice as provided in Section 904c.

911 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 Zoning Officer, 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. Nothing contained in this Ordinance shall be construed to grant to any person other than the Township the right to commence any action for enforcement of this Ordinance.

912 ENFORCEMENT REMEDIES: Any person, partnership or corporation who or which has violated or permitted the violation of the provisions of this Ordinance shall, upon being found liable therefor in a civil enforcement proceeding commenced by the Township, pay a judgment of not more than \$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 Justice. If the defendant neither pays nor timely appeals the judgment, the Township may enforce the judgment pursuant to the applicable rules of civil procedure. Each day that a violation continues shall constitute a separate violation, unless the District Justice further determines that there was a good faith basis for the person, partnership or corporation violating the Ordinance to have believed that there was no such violation, in which event there shall be deemed to have been only one such violation until the fifth day following the date of the determination of a violation by the District Justice and thereafter each day that a violation continues shall constitute a separate violation. All judgments, costs and reasonable attorney fees collected for the violation of this Ordinance shall be paid over to the Township.

913 JURISDICTION

The District Justice shall have initial jurisdiction over proceedings brought under Section 912.

914 FEES

Fees for permits and administration of the provisions of this Ordinance shall be established by resolution of the Supervisors.

915 REPEALS

915.a In all respects inconsistent herewith, the Wharton Township Zoning Ordinance is repealed as of the effective date set forth below.

915.b All other Township Ordinances or parts of Ordinances are repealed insofar as they are inconsistent herewith.

915.c In no event shall the repeal of any prior Ordinance, in whole or in part, be interpreted to create a gap permitting the establishment of any nonconforming structures or uses not established as such prior to the adoption of this Ordinance.

916 EFFECTIVE DATE

This Ordinance takes effect five (5) days after enactment

