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New Vernon Township

**MERCER COUNTY
PENNSYLVANIA**

Ordinance No. 1994-1

ZONING ORDINANCE

An Ordinance Regulating and Restricting:

- The Height and Number of Stories and Size of Buildings and Other Structures;
- Their Construction, Alteration, Extension, Repair, Maintenance and All Facilities and Services in or about such Buildings and Structures;
- The Percentage of Lot that may be occupied;
- The Size of Yards, Courts and Other Open Spaces;
- The Density of Population;
- New Construction and Development within Areas subject to Flooding;
- The Location and Use of Buildings, Structures and Land for Trade, Industry, Residence or Other Purposes;
- The Establishment and Maintenance of Building Lines and Set Back Building Lines upon Any or All Public Roads or Highways;
- Creating Districts for said Purposes and Establishing the Boundaries thereof;
- Defining Certain Terms used herein;
- Providing for the Method of Administration and Amendment for a Zoning Hearing Board and for the Imposition of Penalties.

BE IT ORDAINED by the Township of New Vernon, Mercer County, Pennsylvania, that in the interest of promoting the health, safety, morals and the general welfare of the Township the following articles, sections, subsections, provisions, regulations, limitations, restrictions, sentences, clauses, phrases and words be, and at the same time are, hereby enacted into law to read as follows, viz:

ARTICLE I

SHORT TITLE - PURPOSE - SCOPE

Section 100: Short Title

This ordinance shall be known as the "New Vernon Township Zoning Ordinance" hereinafter referred to as the "Zoning Ordinance".

The official map showing zoning districts and boundaries shall be known as the "New Vernon Township Zoning Map" copies of which shall be retained by the Township Zoning Officer and the Township Secretary. The map included herein is a reproduction of the official map and for reference only.

Section 101: Purpose

The regulations of the "Zoning Ordinance" are made in accordance with the following purpose:

- (1) to lessen congestion on the roads and highways.
- (2) to secure safety from fire, panic and other dangers.
- (3) to promote health and the general welfare.
- (4) to provide adequate light and air.
- (5) to prevent the overcrowding of land.
- (6) to avoid undue congestion of population.
- (7) to facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements.
- (8) to minimize damages caused by natural flooding to people and to development.
- (9) to protect and enhance the value of land.
- (10) to encourage yet control new development and growth in the Township.

Such regulations are also made with reasonable consideration to the character of the districts hereinafter set forth and their suitability for particular uses, and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the Township.

Section 102: Scope

The "Zoning Ordinance" regulates and restricts within the boundaries of the Township of New Vernon, Mercer County, Pennsylvania:

- (1) The height, number of stories and size of buildings and other structures.
- (2) Their construction, alteration, extension, repair and maintenance.
- (3) All facilities and services in or about such buildings and structures.
- (4) The percentage of lot that may be occupied.
- (5) The size of yards, courts and other open spaces.
- (6) The density of population.
- (7) The location and use of buildings, structures and land for trade, industry, residence or other purposes.
- (8) The establishment and maintenance of building lines and setback building lines upon any or all public roads or highways.
- (9) New construction and development whose location is within areas subject to flooding.

Section 103: Application

In applying the provisions of the Zoning Ordinance, they shall be held to be the minimum requirements as they shall apply to the use, and/or occupancy of all buildings, other structures and/or lots. Where the Zoning Ordinance imposes greater restrictions than those of any statute, other ordinance or regulations, the provisions of the Zoning Ordinance shall be controlling. Where the provisions of any statute, other ordinance or regulation impose greater restrictions than the Zoning Ordinance, those shall be controlling. The Zoning Ordinance is not intended to interfere with any covenant or other agreement between private parties. However, where the Zoning Ordinance imposes greater restrictions than those imposed by any such easement, covenant or agreement, the provisions of the Zoning Ordinance shall govern. Where any such easement, covenant or other agreement imposes greater restrictions than those imposed by the Zoning Ordinance, those shall govern.

ARTICLE II

COMMUNITY DEVELOPMENT OBJECTIVES

Section 200: Purpose of Community Development Objectives

This article shall serve as the statement of community development objectives for the New Vernon Township Zoning Ordinance as required by Section 606 of the Pennsylvania Municipalities Planning Code (Act 247 of 1968, as amended). The Zoning Ordinance reflects the policy goals of the Township as stated in the following community development objectives and has been developed as a legislative and administrative tool of the Township to implement said objectives.

Section 201: Overall Goal

It is the overall goal of New Vernon Township to develop and preserve a pleasant, attractive, healthy, safe, and convenient environment for living, working, shopping, and recreating in the Township.

Section 202: Land Use Goal

To provide and perpetuate a land use pattern which is able to function efficiently, which features an optimum degree of compatibility between land uses and between development and the natural environment, and which enhances the orderly timing of development.

202.1: Specific Objectives

- (1) To encourage the concentration of land uses into discernable clusters and limit both "spot" development and irregularly dispersed development patterns.
- (2) Prevent undesirable land use relationships and protect property values by avoiding the mixing of incompatible, conflicting land uses.
- (3) To encourage new growth and development by providing adequate land area in each zoning district to meet anticipated future needs and demands.
- (4) To develop a land use pattern which considers highway load capacities, traffic volumes and patterns, and speed limits.

Section 203: Economic Goal

To provide adequate shopping and employment opportunities for New Vernon Township residents while at the same time preserving a healthful, secure, and pleasant residential environment.

203.1: Specific Objectives

- (1) To encourage economic growth in the Township via new commercial and industrial development.
- (2) To encourage commercial development along major transportation routes, including the interstate interchange and areas of proposed public sewer and water facilities.
- (3) To discourage the indiscriminate spread of commercial and industrial development.
- (4) Encourage the orderly development of business and industry and minimize the undesirable impacts of sight, noise, odor, or other public hazards and nuisances generated by commercial and industrial development.
- (5) To provide site development controls and protective buffer areas where commercial and industrial development will occur adjacent to residentially-zoned lands.

Section 204: Housing Goal

To provide and maintain an adequate supply of sound, safe, and sanitary housing in a variety of price ranges for all the residents of New Vernon Township.

204.1: Specific Objectives

- (1) Preserve the residential character and quality of viable residential areas and protect them from incompatible land uses.
- (2) Provide for a diversity in housing types in the Township so that every family or individual has a choice of residential environment and life-style.
- (3) Control the placement of mobile homes and the development of mobile home parks in order to ensure their conformity with the aesthetics and neighborhood character of existing residential areas in the Township.
- (4) To discourage the scattering of high-density, multi-family residential development.

Section 205: Community Facilities and Services Goal

To provide for facilities, services, and utilities in the quantity and quality necessary to meet the physical, social, cultural, recreational, and aesthetic needs of the community.

205.1: Specific Objectives

- (1) Provide adequate land area for the provision and maintenance of essential public facilities and services such as water and sewers, streets, recreation, schools, police and fire protection, and human services.
- (2) Encourage an orderly and efficient pattern of development which facilitates and minimizes the cost of provision of community facilities and services.
- (3) Provide for efficient traffic circulation and prevent congestion of streets and pedestrian ways.
- (4) Discourage land use development which would create safety hazards to vehicular and pedestrian travel.

Section 206: Environmental and Aesthetic Goal

To enrich the lives of all residents and to promote New Vernon's attractive, rural atmosphere by striving to improve the aesthetic quality and visual impact of the man-made environment and to preserve and enhance the natural environment.

206.1: Specific Objectives

- (1) Eliminate or carefully control all causes of pollution including but not limited to noise, water, air, and surface pollution.
- (2) To discourage or control development in areas characterized by unsuitable soil conditions or potential for flooding.
- (3) To preserve wetlands and unique natural areas and protect them from development.
- (4) Promote the conservation of energy as a matter of serious public concern.
- (5) Encourage the elimination, isolation, or screening of all scenic detriments created by man.
- (6) Encourage the use of aesthetically pleasing landscaping practices to enhance the visual quality of the man-made environment.

- (7) Control the use of signs in terms of number, type, size and location, and encourage aesthetics and attractiveness in their design.

ARTICLE III

ZONING DISTRICTS

Section 300: Zoning Districts

New Vernon Township is hereby divided into the following Zoning Districts:

<u>Full Name</u>	<u>Short Name</u>
Rural Residential-Agricultural	"R"
Business-Travel Service	"B"
Industrial	"I"
Flood Plain	"FP"

Section 301: Boundaries of Zoning Districts

The boundaries of the Zoning Districts shall be as shown on the Zoning Map. Where uncertainty exists with respect to the boundaries of the various Zoning Districts, the following rules shall apply:

301.1: Where a Zoning District Boundary Approximately Follows a Street or Alley

The center line of such street or alley shall be interpreted to be the Zoning District boundary.

301.2: Where a Zoning District Boundary Approximately Parallels a Street Lot Line or Alley Lot Line

The boundary shall be interpreted as being parallel to it and at such distance from it as indicated on the Zoning Map. If no distance is given, such dimension shall be determined by the use of the scale shown on the Zoning Map.

301.3: Where a Zoning District Boundary Approximately Follows a Lot Line

The lot line shall be interpreted to be the Zoning District boundary.

301.4: Where A Zoning District Boundary Follows a Watercourse

The center line of the watercourse shall be interpreted to be the Zoning District boundary.

301.5: Submerged Areas

Where areas within the Township are underwater and are bounded by two or more zoning districts, the boundary lines of these districts shall be extended to the center of the body of water.

301.6: Classification of Annexed Lands

Any land annexed to or made a part of the Township subsequent to the adoption of this ordinance, shall immediately be classified in the same Zoning District as the area to which it is contiguous, as of the effective date of annexation.

301.7: Vacation of Public Ways

Whenever any street or alley is vacated, the Zoning District or Districts adjoining the side of such street or alley shall be automatically extended to the center of the vacated area.

301.8: Where a Zoning District Boundary Does Not Follow a Physical Feature or Lot Line and None of the Previous Rules Apply

The location of such boundary, unless the same is indicated by dimensions shown on the Zoning Map, shall be determined by the use of the map scale appearing thereon.

Section 302: Flood Plain District Overlay Concept

302.1 - The Flood Plain District shall be an overlay to the existing underlying districts as shown on the Official Zoning Ordinance Map, and as such, the provisions for the flood plain district shall serve as a supplement to the underlying district provisions.

302.2 - Where there happens to be any conflict between the provisions or requirements of the Flood Plain District and those of any underlying district the more restrictive provisions and/or those pertaining to the flood plain districts shall apply.

302.3 - In the event any provision concerning the Flood Plain District is declared inapplicable as a result of any legislative or administrative actions or judicial discretion, the basic underlying district provisions shall remain applicable.

ARTICLE IV

"R" RURAL RESIDENTIAL-AGRICULTURE ZONING DISTRICT

Section 400: Purpose of Zoning District

To provide a Zoning District which will encourage agriculture and related uses and provide for the orderly development of land for residential, recreational, and other compatible uses.

Section 401: Use Regulations

401.1: Principal Uses Permitted

- (1) Agricultural Uses Including:
 - (a) Farms.
 - (b) Experimental stations for agriculture.
 - (c) Forest Preserves.
 - (d) Nurseries and/or greenhouses.
 - (e) Processing of agricultural products.
 - (f) Grange halls and related agricultural organizations.
 - (g) Sportsmens Clubs.
- (2) Single-Family Residential Dwellings.
- (3) Two-Family Residential Dwellings.
- (4) Multiple-Family Residential Dwellings, provided: All multiple-family dwellings shall be permitted only upon the approval of the Township Board of Supervisors and shall comply with all applicable provisions of the Zoning Ordinance including the following:
 - (a) Interior drives and automobile parking shall be located and arranged to prevent blockage of vehicles entering or leaving the site and minimize conflicts between pedestrian/vehicular and vehicular/vehicular points of intersection.

- (b) Areas for loading and unloading delivery trucks and other vehicles and for the servicing of the premises by refuse collection, fuel and other service vehicles shall be provided and so arranged that they may be used without blockage or interference with the use of driveways or automobile parking facilities.
 - (c) The plan of proposed sewer and water facilities shall have been approved by either the Pennsylvania Department of Environmental Resources or, where tap-in to the Township public water or sewerage system is proposed, by the Township Board of Supervisors prior to issuance of a permit.
 - (d) Drainage of increased storm water runoff caused by the development shall be managed so as to be directed away from buildings and to prevent ponding, accelerated erosion, or flooding of adjacent properties and roads.
 - (e) A minimum of 2,000 square feet per dwelling unit of undeveloped open space shall be provided.
 - (f) Any screening or landscaping shall not, by reason of location or height, constitute a traffic hazard.
 - (g) Where the condominium form of ownership is proposed, the development shall conform to all applicable provisions of the Pennsylvania "Uniform Condominium Act" Act 82 of 1980.
- (5) Mobile Homes, provided:
- (a) Self contained mobile home units must have a floor area of 600 square feet or more, provided they conform to all regulations applicable to single-family dwellings.
 - (b) Mobile home square footage shall be determined by the certificate of title of the mobile home. In addition, tipouts may be used in determining mobile home square footage.
 - (c) Skirting shall be provided on all mobile homes.
 - (d) Mobile homes shall be placed upon a cellar foundation or a mobile home stand made of a concrete pad or concrete piers.
 - (e) Each mobile home foundation or stand shall provide adequate tie downs, able to withstand a wind pressure of 15 lbs. per square foot on an exposed vertical surface. Both "over the top" and frame tie downs shall be required. The strapping for any "over the top" tie downs shall be of 4700 lb. tensile strength.

- (6) Mobile Home Parks, provided:
 - (a) They shall comply with all applicable provisions of the Mercer County Subdivision and Land Development Regulations.
 - (b) A copy of the final plan of the mobile home park indicating approval by the Mercer County Regional Planning Commission shall be submitted to the Zoning Officer prior to issuance of a permit.
- (7) Recreational Vehicle Parks, provided:
 - (a) They shall comply with all applicable provisions of the Mercer County Subdivision and Land Development Ordinance.
 - (b) A copy of the final plan of the Recreational Vehicle Park indicating approval by the Mercer County Regional Planning Commission shall be submitted to the Zoning Officer prior to issuance of a permit.
- (8) Church, Church Uses, Cemeteries.
- (9) Governmental or Governmental Authority Facility, Service Structure or Use, provided:
 - (a) It shall serve as a community facility or be reasonably necessary for the adequate distribution of services.
 - (b) It shall be authorized by a governmental agency.
- (10) Public Utility Facility, Service Structure and/or Use, provided:
 - (a) It shall not include any type of equipment which will in any way interfere with local radio or television communications or otherwise be detrimental to the surrounding area.
 - (b) It shall not include a business facility, repair facility, a power generating station, storage of materials, storage of any repair or trouble crew outside a structure.
 - (c) It shall be reasonably necessary to adequate distribution of service.
 - (d) That the structure(s) be compatible with other permitted structures in the District in which it is located.
- (11) Golf Courses, miniature golf courses.

- (12) Public and Non-Commercial Recreation Uses.
- (13) Schools, Both Public and Private and Colleges including dormitories for students and/or faculty.
- (14) Hospitals and Institutional Homes.
- (15) Child Care Centers.
- (16) Self-Storage Facility
- (17) Bed and Breakfast House, provided:
 - (a) Alterations to the structure that change its exterior dimensions are prohibited.
 - (b) The appearance of the structure shall not be altered to differ from its residential character.
 - (c) Guests may stay up to and no more than fourteen (14) consecutive days.
 - (d) It shall provide board (meals for pay) only to guests rooming on the premises.
 - (e) The building to be used as the Bed and Breakfast shall also be the principal residence of the Proprietor (s). Proprietor is herein defined as the person who is financially at risk through the method of operation of the Bed and Breakfast.
- (18) Campgrounds, provided that it shall conform to the following requirements:
 - (a) The request for a permit as herein required, shall be accompanied by a site plan showing the scale to which it is drawn, showing the location of the proposed campground in relation to all roads and lot lines within 200 feet of the campground boundaries, the location size and arrangement of all roads and lots, screening, the location of all proposed central sanitary facilities and wells or other sources of water supply and the location of special buildings and other pertinent features. This site plan shall be submitted in triplicate (3 copies); 1 copy for the Zoning Officer, one (1) for the Planning Commission and one (1) for the Board of Supervisors. This plan must be approved by the Planning Commission prior to the issuance of a building permit.
 - (b) Campgrounds in existence on the effective date of this Ordinance may continue to operate under present regulations. However, any new addition onto existing parks shall conform to the requirements set forth in this Ordinance.

(c) Design Requirements:

1. The campground shall be located on a well-drained site of a minimum of 5-acres in area properly graded to insure rapid drainage and freedom from stagnant pools of water.
2. Tent spaces shall be dimensioned, improved and arranged so that when any space is occupied, no portion of any unit (including awning or other accessory attachments) shall be within 15 feet of any other unit or building within the camp or 100 feet from any property line bounding the camp. The 100 foot buffer area adjacent to the camp boundaries shall be suitably planted and screened as may be required by the Planning Commission.
3. The walls of all structures and tents must comply with building setback requirements of Section 403.4 of this Ordinance.
4. All tent spaces shall abut upon a driveway of not less than 20 feet in width which shall have unobstructed access to a public road.
5. Each campground shall provide utilities, sanitary sewerage, and refuse collection as required by the Pennsylvania Department of Environmental Resources.
6. All electrical facilities shall be installed and maintained in accordance with specifications regulating such systems as required by the National Electrical Code and any inspection agency approved by the Commonwealth of Pennsylvania.

401.2: Prohibited Uses

The use of land for a junk yard or the open storage of junk shall be prohibited in the "R" Residential-Agricultural District.

401.3: Accessory Uses Permitted

- (1) Private Garages.
- (2) Farm Structures and Uses necessary for normal farming operations.
- (3) Sale of Agricultural or Nursery Products, provided:
 - (a) 50% of products sold are produced on the same lot.

- (b) A temporary structure shall be permitted and shall be set back a minimum of 25 feet from the road right-of-way.
- (4) Private Playhouse, Swimming Pool, Tennis Court, Tool or Storage Shed, and Private Greenhouse.
- (5) Private Incinerator, provided:
 - (a) It shall be located within the dwelling, or in the rear yard only.
 - (b) It shall be used only for burning of refuse produced on the premises.
- (6) Wall, Fence, Lamp Post, Similar Accessory Structure.
- (7) Boarding Unit, Lodging Unit, Rooming Unit, provided:
 - (a) It shall be limited to a maximum of 3 such units.
 - (b) It shall be for non-transients only.
 - (c) It shall be located in the principal dwelling building.
- (8) Home Occupation as defined in this Zoning Ordinance, provided:
 - (a) The principal building on the lot is a dwelling unit.
 - (b) The following standards are complied with in full at all times:
 - (1) The residents of the dwelling unit and not more than 3 other persons are engaged or employed in the home occupation;
 - (2) No alteration of the residential appearance of the premises occurs;
 - (3) No process is used which is hazardous to public health, safety, morals or welfare;
 - (4) Visitors, customers or deliveries shall not be excessive as to cause a disturbance to the residential character of the zoning district; and
 - (c) The Zoning Officer has approved of the use as a Home Occupation, in accordance with Section 1100.2 of this ordinance.

- (9) Storage or Parking of a Recreational Vehicle or Non-agricultural Commercially Licensed Vehicle, provided:
 - (a) It shall comply with the height and area regulations for accessory structures.
 - (b) It shall be limited to no more than one recreational vehicle and/or one non-agricultural commercially licensed vehicle.
 - (c) It shall not be used for human habitation.
- (10) Equipment for energy conversion such as solar collectors, provided it shall be compatible with surrounding structures.
- (11) Private Shelter for Domestic Pets including ponies or horses, provided that horses and ponies shall be located on lots of one acre or more.
- (12) Any Other Accessory Use, provided:
 - (a) It shall be customarily incidental and subordinate to a permitted principal use.
 - (b) It shall be located on the same lot as the principal use.

Section 402: Height Regulations

402.1: General Provision

Any building used for the storage of agricultural products or machinery is not limited in height.

402.2: Maximum Height Requirements

- (1) Principal Structures shall not exceed 40 feet in height.
- (2) Accessory Structures shall not exceed 40 feet in height.

Section 403: Area Regulations

403.1: Minimum Lot Area , excluding road right-of-way

- (1) Single-Family Dwelling - 20,000 square feet.
- (2) Two-Family Dwelling - 40,000 square feet.

- (3) Multiple-Family Dwelling - Gross lot area no less than 15,000 square feet per dwelling unit with a minimum of two (2) acres.
- (4) Other Permitted Uses - 20,000 square feet.

403.2: Minimum Lot Width as determined at the building setback line

- (1) Single-Family Dwelling - 100 feet.
- (2) Two-Family Dwelling - 120 feet.
- (3) Multiple-Family Dwelling - 150 feet
- (4) Other Permitted Uses - 100 feet.

403.3: Maximum Percentage of Lot Coverage

25% including principal and accessory structures combined.

403.4: Minimum Building Setback

Building setback line shall be 100 feet on all roads indicated as major or minor thoroughfares on the Official Street Map of the Township and 75 feet on all other roads. Measurements are to begin at the centerline of the road.

403.5: Minimum Side Yard

- (1) Single-Family Dwelling - 15 feet on each side.
- (2) Two-Family Dwelling - 25 feet on each side.
- (3) Multiple-Family Dwelling - 50 feet from any adjacent property line, 40 feet between principal structures on the property.
- (4) Other Permitted Uses - 15 feet on each side.

403.6: Minimum Rear Yard

- (1) Single-Family Dwelling, Two-Family Dwelling and other permitted uses - 35 feet for principal structures, 10 feet for accessory structures.
- (2) Multiple-Family Dwelling - 50 feet for principal structures, 10 feet for other structures.

403.7: Minimum Floor Area

Minimum residential floor area for all dwelling units shall be 600 square feet.

ARTICLE V

"B" BUSINESS-TRAVEL SERVICE DISTRICT

Section 500: Purpose of Zoning District

To provide a Zoning District which will encourage the establishment and maintenance of businesses in the Township, especially those which serve the traveler and the motoring public, and which will prohibit business and other uses which are clearly offensive or noxious by reason of smoke, odor, gas, vibration or noise.

Section 501: Use Regulations

501.1: Principal Uses Permitted

- (1) Automotive Service Establishments including but not limited to a fuel service station, repair and service facility, car and/or truck wash, automotive sales, and auto parts sales, provided:
 - (a) It shall not be located within 100 feet of any lot line in any Residential Zoning District.
 - (b) Means of ingress or egress shall be located no closer than 100 feet from the intersecting right-of-way lines of street intersections.
 - (c) Access drives shall not exceed two per lot on any one street frontage.
 - (d) Access drives shall not exceed 35 feet in width within 10 feet of the street right-of-way line.
- (2) Eating and Drinking Establishments.
- (3) Motels, Motor Inns or other types of short term lodging facilities but excluding Campgrounds or Recreational Vehicle Parks.
- (4) Personal Service Establishments, including but not limited to a barber shop, beauty parlor, dry cleaning, self-service laundry, bank, and lending library.
- (5) Retail Sales/Rental and/or Product Service Establishments, including establishments engaged in the sale of motor vehicles, recreational vehicles, and mobile homes.

- (6) Food and Grocery Stores.
- (7) Health Service Establishment, including but not limited to a physician's office, medical clinic, or dental clinic, but excluding a hospital.
- (8) Clubs such as a membership club, lodge or fraternal organization building.
- (9) Governmental or Governmental Authority Facility, Service Structure or Use, provided:
 - (a) It shall serve as a community facility or be reasonably necessary for the adequate distribution of services.
 - (b) It shall be authorized by a governmental agency.
- (10) Public Utility Facility, Service Structure and/or Use, provided:
 - (a) It shall not include any type of equipment which will in any way interfere with local radio or television communications or otherwise be detrimental to the surrounding area.
 - (b) It shall be reasonably necessary to adequate distribution of service.
- (11) Commercial Recreation Establishment, provided any entrance to such establishments shall not be located within 200 feet of a lot line of any lot on which is located a church, hospital or school.
- (12) Office Establishments.
- (13) Self-Storage Facility.
- (14) Parking Lots and Structures, provided:
 - (a) There shall not be any vehicle parked within 10 feet of any Residential Zoning District.
 - (b) There shall not be any automotive repair facilities located on the lot.
 - (c) There shall not be any storage of materials, junk, or any equipment on the lot.

501.2: Accessory Uses Permitted

- (1) Processing, Cleaning, Servicing, Testing or Repair, provided:

- (a) It shall be limited to 20 percent of the gross floor area of the principal structure.
- (b) It shall not extend beyond 10 feet from the front of the principal structure.
- (2) Any Other Accessory Use, provided:
 - (a) It shall be customarily incidental and subordinate to the permitted principal use.
 - (b) It shall be located on the same zoning lot as the principal use.

501.3: Prohibited Uses

The use of land for a junk yard or the open storage of junk shall be prohibited in the "B" Business-Travel Service District.

Section 502: Development Regulations

502.1: Provisions of Use

Any permitted principal and/or accessory use shall be subject to the following use regulations.

- (1) All accessory storage of junk, waste, discarded or salvaged material, machinery or equipment, including automobile, truck or other vehicle parts shall not be permitted except within a completely enclosed structure or solid wall or fence of at least six (6) feet in height.
- (2) Access driveways and entrances shall be permitted in locations in which sight distance is adequate to allow safe movement of traffic in or out of the driveway or entrance, the free movement of normal highway traffic is not impaired and the driveway or entrance will not create a hazard or an area of undue traffic congestion on highways to which it has access. The zoning officer may require the permit applicant to submit engineering data and/or traffic analyses to support its proposed plan of access driveways and entrances.
- (3) Adequate storm drainage facilities shall be installed to ensure that stormwater does not flow onto abutting property, sidewalks or streets in such quantities as to cause detrimental effect or inconvenience. Maximum rates of stormwater runoff from the property after development shall not be greater than as existed prior to the development.
- (4) Any part or portion of a lot developed for "B" District uses which is not used for buildings, other structures, parking or loading spaces or aisles, driveways, sidewalks

and designated storage areas shall be planted and maintained with grass or other all season groundcover vegetation. Grass shall be kept neatly mowed. Landscaping with trees and shrubs is permitted and encouraged. Any off-street parking area located in a required frontyard building setback shall be located at least 5 feet from the road right-of-way with the area in between the road right-of-way and parking maintained according to Section 502.1 (8).

- (5) It shall not emit any noxious, toxic, or corrosive fumes or gasses nor shall it emit any offensive odors.
- (6) It shall provide necessary shielding or other protective measures against interference occasioned by mechanical equipment or uses or processes with electrical apparatus.
- (7) All exterior lighting shall be placed and shielded so as not to create a nuisance for adjacent properties and passing motorists.

502.2: Buffer and Screening Requirements

Where any permitted principal and/or accessory use, excluding uses stated in Section 501.1 (9), (10), and (13), abuts any land zoned "R" Rural Residential-Agriculture or abuts any land zoned "B" Business-Travel Service that contains an existing residential use, the following buffer and screening shall be required. These requirements shall apply in instances where such use is located within 200 feet of the abutting "R" lot line, is being newly developed on vacant land, expanded in floor area by 50% or greater, or removed and a new use developed.

- (1) A buffer strip at least 10 feet wide shall be provided and maintained along the entire length of a side or rear yard where it abuts a "R" District or a "B" District with an existing residential use. Buffer strips shall not be used for parking, storage of vehicles, equipment or materials, nor for any other use incompatible with their purpose as a visual, noise, dust and pollution barrier.
- (2) The buffer strip shall contain suitable screening, defined as either of the following:
 - (a) A solid fence or wall, architecturally compatible with existing structures in the area, no less than 5 feet nor more than 8 feet in height; or
 - (b) A sight-obscuring planting of evergreens, not less than 4 feet in height at the time of planting and of a variety that will maintain full, dense growth from the ground up to a height of not less than 6 feet upon maturity, planted at a spacing of the lesser of 8 feet or the diameter of a mature specimen of the species being planted.

- (3) Areas of the buffer strip not covered with a fence, wall or screening plantings shall be planted with grass or other appropriate ground cover vegetation.
- (4) Installation and maintenance of the buffer and screening shall be the responsibility of the owner of the property on which the "B" District permitted use is located. Installation must be completed prior to issuance of a Certificate of Use and Occupancy by the Zoning Officer. Fences or walls must be maintained in safe and structurally sound condition. Dead or diseased plants shall be removed and replaced in a timely manner. Grass shall be kept neatly mowed.

Section 503: Height Regulations

503.1: Maximum Height Requirement

- (1) Principal Structures shall not exceed 40 feet in height.
- (2) Accessory Structures shall not exceed 40 feet in height.

Section 504: Area Regulations

504.1: Minimum Lot Area , excluding road right-of-way

20,000 square feet.

504.2: Minimum Lot Width as determined at the building setback line

125 feet.

504.3: Minimum Building Setback

Building setback line shall be 100 feet on all roads indicated as major thoroughfares on the Official Street Map of the Township, and 75 feet on all other roads. Measurements are to begin at the center line of the road.

504.4: Minimum Building Distance from a Lot Line of any "R" Zoning District

50 feet, unless otherwise specified.

504.5: Minimum Side Yard for principal and accessory structures

25 feet.

504.6: Minimum Rear Yard

- (a) 35 feet for principal structures.
- (b) 15 feet for accessory structures.

ARTICLE VI

"I" INDUSTRIAL ZONING DISTRICT

Section 600: Purpose of Zoning District

To provide a Zoning District which will encourage the establishment and maintenance of industrial uses and particular business uses and which will discourage the establishment of residential and other uses which are inappropriate in an Industrial Zoning District.

Section 601: Use Regulations

601.1: Principal Uses Permitted

- (1) Trucking Facilities including:
 - (a) Motor Freight terminals.
 - (b) Truck service facilities for the sale of petroleum products (primarily to the trucking industry and facilities for repair and maintenance service.)
 - (c) Motor freight relay stations.
 - (d) Refueling and service facilities for motor freight carriers privately owned by trucking companies.
 - (e) Truck-stops; i.e., separate or integrated facilities providing eating and/or sleeping accommodations, refueling facilities and minor repair or service facilities.
 - (f) Other related facilities, whose basic function is to serve the trucking and motor freight industry.
- (2) Automotive Repair Facilities, including general repair and autobody repair shops.
- (3) Wholesale or Warehousing Operations conducted entirely within buildings.
- (4) Bulk Storage and Distribution Facilities for petroleum or natural gas products or by-products, provided:
 - (a) It shall be approved by the Township Fire Chief and the Commonwealth of Pennsylvania.

- (b) It shall not be located within 200 feet of any lot line in any "R" Zoning District, or within 30 feet of any adjoining lot line.
- (c) The area shall be enclosed on all sides by a fence or wall not less than six (6) feet high and maintained in good condition.
- (5) Industrial Establishments for manufacturing, processing, packing or bottling.
- (6) Industrial Research and Development Facilities.
- (7) Office Establishments.
- (8) Sales Establishments engaged in the sale of motor vehicles, recreational vehicles, mobile homes and/or boats.
- (9) Rental Service Store.
- (10) Governmental or Governmental Authority Facility, Service Structure and/or Use, provided: it shall not include a school, playground, or other recreation use.
- (11) Public Utility Facility, Service Structure, and/or Use.
- (12) Establishments for the Storage and/or Sale of Junk.

601.2: Accessory Uses Permitted

- (1) Any Accessory Use, provided:
 - (a) It shall be customarily incidental and subordinate to the principal permitted use.
 - (b) It shall be located on the same lot as the principal use.

Section 602: Development Regulations

602.1: Provisions of Use

Any permitted principal and/or accessory use shall be subject to the following use regulations:

- (1) Access driveways and entrances shall be permitted in a number and locations in which

sight distance is adequate to allow safe movement of traffic in or out of the driveway or entrance, the free movement of normal highway traffic is not impaired and the driveway or entrance will not create a hazard or an area of undue traffic congestion on highways to which it has access. The zoning officer may require the permit applicant to submit engineering data and/or traffic analyses to support its proposed plan of access driveways and entrances.

- (2) All principal or accessory storage of junk, waste, discarded or salvaged material, machinery or equipment shall not be permitted except within a completely enclosed structure. Or if the lot area devoted to such use is over two-hundred (200) square feet in area, the owner may have the alternative of enclosing it on all sides, except for an exit and entrance of not over twenty-five (25) feet in width, by a solid fence or wall at least six (6) feet in height and maintained in good condition or by a cyclone or equal-wire fence at least six (6) feet in height and surrounded, except for an exit and entrance of not over twenty-five feet in width, by evergreens at least six (6) feet in height and planted not further apart than six (6) feet so as to form a solid screen.
- (3) It shall provide necessary shielding or other protective measures against interference occasioned by mechanical or uses or processes with electrical apparatus to nearby residences.
- (4) Adequate storm drainage facilities shall be installed to ensure that stormwater does not flow onto abutting property, sidewalks or streets in such quantities as to cause detrimental effect or inconvenience. Maximum rates of stormwater runoff from the property after development shall not be greater than as existed prior to the development.
- (5) Any part or portion of a lot developed for industrial uses which is not used for buildings, other structures, parking or loading spaces or aisles, driveways, sidewalks and designated storage areas shall be planted and maintained with grass or other all season ground cover vegetation. Grass shall be kept neatly mowed. Landscaping with trees and shrubs is permitted and encouraged.
- (6) Any off-street parking area located in a required frontyard building setback shall be located at least 5 feet from the road right-of-way with the area in between the road right-of-way and parking maintained according to Section 602.1 (5).
- (7) All exterior lighting shall be placed and shielded so as not to create a nuisance for adjacent properties and passing motorists.
- (8) It shall comply with all applicable pollution control regulations enacted by the federal and state government and other governmental authorities.

602.2: Buffer and Screening Requirements

Where any permitted principal and/or accessory use abuts any residentially-zoned land, the following buffer and screening are required:

- (1) A buffer strip at least 30 feet wide shall be provided and maintained along the entire length of a side or rear yard where it abuts a residentially-zoned district. Buffer strips shall not be used for parking, storage of vehicles, equipment or materials, nor for any other use incompatible with their purpose as a visual, noise, dust and pollution barrier.
- (2) The buffer shall be planted with evergreens capable of obtaining and maintaining a dense growth to a full height and a full diameter of no less than 12 feet. The minimum height at the time of planting shall be 4 feet. Plants shall be situated in two rows within the bufferstrip, each row being located at least 10 feet from the edge of the buffer strip. Plants in each row shall be spaced no more than 20 feet center-to-center and the two rows shall be situated in an alternating pattern so that the trees in one row are located centrally between the trees in the other row. Plants shall be allowed to obtain a minimum height of 12 feet and shall not be trimmed below that height thereafter.
- (3) Installation and maintenance of the buffer and screening shall be the responsibility of the owner of the property on which the industrial use is located. Installation must be completed prior to issuance of a Certificate of Use and Occupancy by the Zoning Officer. Dead or diseased plants shall be removed and replaced in a timely manner. Grass shall be kept neatly mowed.

Section 603: Height Regulations

603.1: Maximum Height Requirement

- (1) Principal Structures shall not exceed 50 feet in height.
- (2) Accessory Structures shall not exceed the height of the principal structure.

Section 604: Area Regulations

604.1: Minimum Lot Area , excluding road right-of-way

80,000 square feet.

604.2: Minimum Lot Width , as determined at the building setback line

200 feet.

604.3: Minimum Building Setback to a Road Centerline

100 feet.

604.4: Minimum Building Distance to a Lot Line of any "R" Zoning District

100 feet.

604.5: Minimum Building Distance to any Other Lot Line

25 feet.

604.6: Minimum Side Yard

25 feet.

604.7: Minimum Rear Yard

50 feet for principal structures and 25 feet for accessory structures.

ARTICLE VII

"FP" FLOOD PLAIN ZONING DISTRICT

Section 700: Purpose of Zoning District

- (1) To promote the general health, welfare, and safety of the Township.
- (2) To encourage the utilization of appropriate construction practices to minimize flood damage in the future.
- (3) To minimize danger to public health by protecting water supply and natural drainage.
- (4) To reduce financial burdens imposed on the Township, its governmental units, and its residents, by regulating development in areas subject to flooding.

Section 701: Municipal Liability

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

Section 702: Designation of Flood Plain District Area(s)

702.1: Identification

The "Flood Plain District" shall be any area(s) of the Township subject to the one-hundred (100) year flood which is identified as a Special Flood Hazard Area (Zone A) on the Flood Insurance Rate Map as issued by the Federal Emergency Management Agency dated effective February 25, 1983 or any subsequent updated map issued by FEMA as an official replacement.

702.2: Determination of the One-Hundred Year Flood Elevation

For the purposes of this Ordinance, the one-hundred (100) year flood elevation shall be used as the basis for regulation. When available, information from other Federal, State, and other acceptable sources shall be used to determine the one-hundred (100) year elevation, as well as a floodway area, if possible. When no other information is available, the one-hundred (100) year elevation shall be determined by using a point on the boundary of the identified flood plain area which is nearest the construction site in question. In lieu of the above, the Township may require the applicant to determine the elevation with hydrologic and hydraulic engineering techniques. Hydrologic and hydraulic analyses shall be undertaken only by professional engineers or others of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently accepted technical concepts. Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough technical review by the Township.

702.3: Changes in Designation of Flood-Prone Area(s)

The delineation of any of the "FP" District may be revised by the Board of Supervisors where natural or man-made changes have occurred and/or more detailed studies conducted or undertaken by the U.S. Army Corps of Engineers, River Basin Commission, or other qualified agency or individual documents the notification for such changes. However, prior to any such change, approval must be obtained from the Federal Emergency Management Agency.

702.4: Boundary Disputes

Should a dispute concerning the location of the "FP" District boundary arise, an initial determination shall be made by the Zoning Officer and any party aggrieved by this decision may appeal to the Zoning Hearing Board. The burden of the proof shall be on the appellant.

Section 703: Use Regulations

703.1: Permitted Uses

In the Flood Plain District the development and/or use of land shall be permitted in accordance with the regulations of the underlying district provided that all such uses, activities, and/or development shall be undertaken in strict compliance with the flood-proofing and related provisions contained within this article and all other applicable codes and ordinances.

703.2: Prohibited Uses

It has been determined that the following activities and development present a special hazard to the health and safety of the general public, or may result in significant pollution, increased flood levels or flows, or debris endangering life and property if such development are located entirely or partially within a flood hazard area. Therefore, the following uses are specifically prohibited within the Flood Plain District:

- (1) Hospitals (public or private).
- (2) Nursing Homes (public or private).
- (3) New manufactured home parks and manufactured home subdivisions, and substantial improvements thereto.
- (4) Any new or substantially improved structure which will be used for the production or storage of any of the following dangerous materials or substances or which will be used for any activity requiring the maintenance of a supply (more than 550 gallons or other comparable volume or any amount of radioactive substances) of any of the following dangerous materials or substances on the premises:
 - (a) Acetone.
 - (b) Ammonia.
 - (c) Benzene.
 - (d) Calcium Carbide.
 - (e) Carbon Disulfide.
 - (f) Celluloid.
 - (g) Chlorine.
 - (h) Hydrochloric Acid.
 - (i) Hydrocyanic Acid.
 - (j) Magnesium.
 - (k) Nitric Acid and Oxides of Nitrogen.

- (l) Pesticides (including insecticides, fungicides, and rodenticides).
- (m) Petroleum Products (gasoline, fuel oil, etc.)
- (n) Phosphorus.
- (o) Potassium.
- (p) Radioactive substances, insofar as such substances are not otherwise regulated.
- (q) Sodium.
- (r) Sulphur and Sulphur Products.

Section 704: Specific Requirements

704.1: General

- (1) Within the Flood Plain District, the elevation of the lowest floor (including basement) of any new or improved residential structures shall be at or above the one-hundred (100) year flood elevation.
- (2) Within the Flood Plain District, the elevation of the lowest floor (including basement) of non-residential structures shall be at or above the one-hundred (100) year flood elevation or be flood-proofed up to that height. Any non-residential structure, or part thereof, having a lowest floor which is not elevated to or above the one-hundred (100) year flood elevation, shall be flood-proofed in a completely or essentially dry manner in accordance with the W1 or W2 space classification standards contained in the publication entitled "Flood-Proofing Regulations" published by the U.S. Army Corps of Engineers (June 1972), or with some other equivalent standard. All plans and specifications for such flood-proofing shall be accompanied by a statement certified by a registered professional engineer or architect which states that the proposed design and methods of construction are in conformance with the above-referenced standards.
- (3) Within the Flood Plain District, no new construction or development shall be located within the area measured fifty (50) feet landward from the top-of-bank of any watercourse, unless a permit is obtained from the Department of Environmental Resources, Bureau of Dams and Waterway Management.
- (4) Within any floodway area, no new construction or development shall be permitted that would cause any increase in the one-hundred (100) year flood elevation.

704.2: Design and Construction Standards

The following minimum standards shall apply for all construction and development proposed to be undertaken within the Flood Plain District:

- (1) **Drainage Facilities** - Storm drainage facilities shall be designed to convey the flow of surface waters without damage to persons or property. The system shall insure drainage at all points along streets, and provide positive drainage away from buildings. The system shall also be designed to prevent the discharge of excess runoff onto adjacent properties.
- (2) **Sanitary Sewer Facilities** - All new or replacement sanitary sewer facilities, and private package sewage treatment plants (including all pumping stations and collector systems) shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into the flood waters. In addition, they should be located and constructed to minimize or eliminate flood damage and impairment.
- (3) **Water Facilities** - All new or replacement water facilities shall be designed to minimize or eliminate infiltration of flood waters into the system, and be located and constructed to minimize or eliminate flood damages.
- (4) **Streets** - The finished elevation of proposed new streets shall be no more than one (1) foot below the one-hundred (100) year flood elevation.
- (5) **Utilities** - All utilities such as gas lines, electrical and telephone systems shall be located, elevated (where possible) and constructed to minimize the change or impairment during a flood.
- (6) **Fill** - If fill is used, it shall:
 - (a) Extend laterally at least fifteen (15) feet beyond the building line from all points,
 - (b) Consist of soil or small rock materials only (excluding sanitary landfill material),
 - (c) Be compacted to provide the necessary permeability and resistance to erosion, scouring, or settling,
 - (d) Be no steeper than one (1) vertical to two (2) horizontal, unless substantiated data, justifying steeper slopes are submitted to, and approved by the Zoning Officer,
 - (e) Be used to the extent to which it does not adversely affect adjacent properties.

- (7) Placement of Buildings and Structures - All buildings and structures shall be designed, located and constructed, so as to offer the minimum obstruction to the flow of water and shall be designed to have a minimum effect upon the flow and height of flood waters.
- (8) Anchoring:
- (a) All buildings and structures shall be firmly anchored in accordance with accepted engineering practices to prevent flotation, collapse, or lateral movement.
 - (b) All air ducts, large pipes and storage tanks and other similar objects or components located at or below the one-hundred (100) year flood elevation shall be firmly anchored or affixed to prevent flotation.
- (9) Floors, Walls and Ceilings - Where located at or below the one-hundred (100) year flood elevation:
- (a) Wood flooring shall be installed to accommodate a lateral expansion of the flooring, perpendicular to the flooring grain without incurring structural damage to the building.
 - (b) Plywood shall be of a "marine" or "water-resistant" variety.
 - (c) Walls and ceilings shall be designed and constructed of materials that are water-resistant and will withstand inundation.
 - (d) Windows, doors, and other components shall be made of metal or other water-resistant material.
- (10) Electrical Systems and Components:
- (a) Electrical water heaters, furnaces, air conditioning and ventilating systems, and other electrical equipment or apparatus shall not be located below the one-hundred (100) year flood elevation and other electrical equipment or apparatus shall be permitted only at elevations above the one-hundred (100) year flood elevation.
 - (b) Electrical distribution panels shall be at least three (3) feet above the level of the one-hundred (100) year flood elevation.
 - (c) Separate electrical circuits shall serve lower levels and shall be dropped from above.

(11) Plumbing:

- (a) Water heaters, furnaces, and other mechanical equipment or apparatus shall not be located below the one-hundred (100) year flood elevation.
- (b) On-site sewage disposal systems shall be located to avoid impairment to them or contamination from them during flooding. At a minimum, all systems shall meet the requirements of Act 537 - The Pennsylvania Sewage Facilities Act, as amended.
- (c) Water supply systems and sanitary sewage systems shall be designed to prevent the infiltration of flood waters into the system and discharges from the system into flood waters.
- (d) All gas and oil supply systems shall be designed to prevent the infiltration of flood waters into the system and discharges from the system into flood waters. Additional provisions shall be made for the drainage of these systems in the event that flood water infiltration occurs.

(12) Paints and Adhesives - When used at or below the one-hundred (100) year flood elevation:

- (a) Paints or other finishes shall be of a "marine" or water-resistant quality.
- (b) Adhesives shall be of a "marine" or water-resistant quality.

(13) Storage - No materials that are buoyant, flammable, explosive, or in times of flooding, could be injurious to human, animal or plant life, shall be stored below the one-hundred (100) year flood elevation.

704.3: Special Requirements for Manufactured Homes

All manufactured homes and additions thereto located within the Flood Plain District shall be:

- (1) Placed on a permanent foundation.
- (2) Elevated so that the lowest floor of the manufactured home is at or above the elevation of the one-hundred (100) year flood.
- (3) Anchored to resist flotation, collapse, or lateral movement.

Section 705: Existing Structures in the Flood Plain District

Structures existing in the Flood Plain District prior to the enactment of this Ordinance, but which are not in compliance with these provisions, may continue to remain, provided that any modification, alteration, reconstruction, or improvement of any kind to an existing structure, to an extent or amount of fifty (50) percent or more of its market value, shall be undertaken only in full compliance with the provisions of this Ordinance.

ARTICLE VIII
RESERVED FOR FUTURE USE

ARTICLE IX

SIGN REGULATIONS

Section 900: Purpose

The purpose of these sign regulations are: to encourage the effective use of signs as a means of communication in the Township; to maintain and enhance the aesthetic environment and the Township's ability to attract sources of economic development and growth; to improve pedestrian and traffic safety; to minimize the possible adverse effect of signs on nearby public and private property; and to enable the fair and consistent enforcement of these sign restrictions.

Section 901: Applicability

A sign may be erected, placed, established, painted, created, or maintained in the Township only in conformance with the standards, procedures, exemptions, and other requirements of this ordinance.

Section 902: Definitions and Interpretation

Words and phrases used herein shall have the meanings set forth in this section. Words and phrases not defined in this section but defined in Article XIX - Definitions shall be given the meanings set forth therein. All other words and phrases shall be given their common, ordinary meaning, unless the context clearly requires otherwise.

- (1) **Animated Sign** - Any sign that uses movement or change of lighting to depict action or create a special effect or scene.
- (2) **Apartment Sign** - Any sign which identifies and is located on the premises of multiple-family dwellings of at least 3 units under single ownership (whether in single or multiple buildings) and which may also advertise the rental of units on the premises but contain no other commercial message.
- (3) **Banner** - Any sign of lightweight fabric or similar material that is permanently mounted to a pole or a building by a permanent frame at one or more edges. National flags, state or municipal flags or the official flag of any institution or business shall not be considered banners.

- (4) **Beacon** - Any light with one or more beams directed into the atmosphere or directed at one or more points not on the same zone lot as the light source; also, any light with one or more beams that rotate or move.
- (5) **Building Marker** - Any sign indicating the name of a building and date and incidental information about its construction which is cut into a masonry surface or made of bronze or other permanent material.
- (6) **Building Sign** - Any sign attached to any part of a building, as contrasted to a freestanding sign.
- (7) **Canopy Sign** - Any sign that is a part of or attached to an awning, canopy or other fabric, plastic or structural protective cover over a door, entrance, window or outdoor service area. A marquee is not a canopy.
- (8) **Changeable Copy Sign** - A sign or portion thereof with characters, letters or illustrations that can be changed or rearranged without altering the face or the surface of the sign. A sign on which the message changes more than eight times per day shall be considered an animated sign and not a changeable copy sign for purposes of this ordinance. A sign on which the only copy that changes is an electronic or mechanical indication of time or temperature shall be considered a "time and temperature" portion of a sign and not a changeable copy sign for purposes of this ordinance.
- (9) **Commercial Message** - Any sign wording, logo or other representation that, directly or indirectly, names, advertises, or calls attention to a business, product, service or other commercial activity.
- (10) **Development Sign** - Any sign which identifies and is located on the premises of a planned residential or industrial development containing at least 5 lots to be separately developed in a planned, coordinated manner and which may also advertise the availability of lots for sale or development in the planned development identified by the sign but contain no other commercial message.
- (11) **Flag** - Any fabric, banner or bunting containing distinctive colors, patterns or symbols, used as a symbol of a government, political subdivision, or other entity.
- (12) **Freestanding Sign** - Any sign supported by structures or supports that are placed on, or anchored in, the ground and that are independent from any building or other structure.
- (13) **Home Occupation Sign** - Any sign located in a district zoned for residential uses which contains no commercial message except advertising for goods and services legally offered on the premises where the sign is located, provided such use conforms with all requirements of the zoning ordinance.

- (14) **Identification Sign** - A sign which indicates only the name and address of the building or occupant of the building at which the sign is located.
- (15) **Incidental Sign** - A sign, generally informational, that has a purpose secondary to the use of the zone lot on which it is located, such as "no parking", "entrance", "loading only", "telephone", and other similar directives. No sign with a commercial message legible from a position off the zone lot on which the sign is located shall be considered incidental.
- (16) **Institutional Sign** - Any sign which identifies and is located on the premises of an institutional or other non-residential principal use permitted in any Residential Zoning District.
- (17) **Marquee** - Any permanent roof-like structure projecting beyond a building or extending along and projecting beyond the wall of the building, generally designed and constructed to provide protection from the weather.
- (18) **Marquee Sign** - Any sign attached to, in any manner, or made a part of a marquee.
- (19) **Nonconforming Sign** - Any sign that does not conform to the requirements of this ordinance.
- (20) **Pennant** - Any lightweight plastic, fabric, or other material, whether or not containing a message of any kind, suspended from a rope, wire or string, usually in series, designed to move in the wind.
- (21) **Portable Sign** - Any sign not permanently attached to the ground or other permanent structure, or a sign designed to be transported, including, but not limited to, signs designed to be transported by means of wheels; signs converted to A or T-frames; menu and sandwich board signs; balloons used as signs; umbrellas used for advertising; and signs attached to or painted on vehicles parked and visible from the public right-of-way, unless said vehicle is used in the normal day-to-day operations of the business.
- (22) **Principal Building** - The building in which is conducted the principal use of the zone lot on which it is located. Zone lots with multiple principal uses may have multiple principal buildings, but storage buildings, garages and other clearly accessory uses shall not be considered principal buildings.
- (23) **Projecting Sign** - Any sign affixed to a building or wall in such a manner that its leading edge extends more than six inches beyond the surface of such building or wall and that the highest point of any part of the sign does not exceed the height of the building or wall to which it is attached.

- (24) **Roof Sign** - Any sign erected and constructed wholly on and over the roof of a building, supported by the roof structure, and extending vertically above the highest portion of the roof.
- (25) **Roof Sign, Integral** - Any sign erected or constructed as an integral or essentially integral part of a normal roof structure of any design, such that no part of the sign extends vertically above the highest portion of the roof and such that no part of the sign is separated from the rest of the roof by a space of more than six inches.
- (26) **Setback, Sign** - The distance from the property line to the nearest part of the applicable sign, measured perpendicularly to the property line.
- (27) **Sign** - Any device, fixture, placard or structure that uses any color, form, graphic, illumination, symbol or writing to advertise, announce the purpose of, or identify the purpose of a person or entity, or to communicate information of any kind to the public.
- (28) **Street Frontage** - The distance for which a lot line of a zone lot adjoins a public street, from one lot line intersecting said street to the furthest distant lot line intersecting the same street.
- (29) **Suspended Sign** - A sign that is suspended from the underside of a horizontal plane surface and is supported by such surface.
- (30) **Temporary Sign** - Any sign that is used only temporarily and is not permanently mounted.
- (31) **Wall Sign** - Any sign attached parallel to, but within six inches of, a wall, painted on the wall surface of, or erected and confined within the limits of an outside wall of any building or structure, which is supported by such wall or building, and which displays only one sign surface.
- (32) **Window Sign** - Any sign, pictures, symbol, or combination thereof, designed to communicate information about an activity, business, commodity, event, sale or service, that is placed inside a window or upon the window panes or glass and is visible from the exterior of the window.
- (33) **Zone Lot** - A parcel of land in single ownership that is of sufficient size to meet minimum zoning requirements for area, coverage and use, and that can provide such yards and other open spaces as required by the zoning regulations.

Section 903: Computations

The following principles shall control the computation of sign area and sign height.

903.1: Computation of Area of Individual Signs

The area of a sign face (which is also the sign area of a wall sign or other sign with only one face) shall be computed by means of the smallest square, circle, rectangle, triangle or combination thereof that will encompass the extreme limits of the writing, representation, emblem, or other display, together with any material or color forming an integral part of the background of the display or used to differentiate the sign from the backdrop or structure against which it is placed, but not including any supporting framework, bracing, or decorative fence or wall when such fence or wall otherwise meets zoning ordinance regulations and is clearly incidental to the display itself.

903.2: Computation of Area of Multifaced Signs

The sign area for a sign with more than one face shall be computed by adding together the area of all sign faces visible from any one point. When two identical sign faces are placed back to back, so that both faces cannot be viewed from any point at the same time, and when such sign faces are part of the same sign structure and are not more than 42 inches apart, the sign area shall be computed by the measurement of one of the faces.

903.3: Computation of Height

The height of a sign shall be computed as the distance from the base of the sign at normal grade to the top of the highest attached component of the sign. Normal grade shall be construed to be the lower of (1) existing grade prior to construction or (2) the newly established grade after construction, exclusive of any filling, berming, mounding, or excavating solely for the purpose of locating the sign. In cases in which the normal grade cannot reasonably be determined, sign height shall be computed on the assumption that the elevation of the normal grade at the base of the sign is equal to the elevation of the nearest point of the crown of a public street or the grade of the land at the principal entrance to the principal structure on the zone lot, whichever is lower.

903.4: Computation of Maximum Total Permitted Sign Area for a Zone Lot

The permitted sum of the area of all individual signs on a zone lot shall be computed by applying the formula contained in Table 904, to the lot frontage, building frontage, or wall area, as appropriate, for the zoning district in which the lot is located. Lots fronting on two or more streets are allowed the permitted sign area for each street frontage. However, the total sign area that is oriented toward a particular street may not exceed the portion of the lot's total sign area allocation that is derived from the lot, building or wall area frontage on that street.

Section 904: Permitted Signs, Prohibited Signs, and Requirements for Sign Type, Numbers, Area, Dimensions, and Location

Signs shall be allowed on private property in the Township and must comply with the requirements for sign type, numbers, area, dimensions and location as specified in Table 904 and the following additional requirements of this section.

904.1: Other Permitted Signs

In addition to the provisions of Table 904, the following signs shall be permitted in all zoning districts:

- (1) Incidental signs, provided that such sign shall not exceed 4 square feet in area.
- (2) Flags of the United States, the State, the Township, foreign nations having diplomatic relations with the United States, and any other flag adopted or sanctioned by an elected legislative body of competent jurisdiction, provided that such flags shall not exceed 60 square feet in area and shall not be flown from a pole the top of which is more than 40 feet in height. Any flag not meeting these conditions shall be considered a banner sign.
- (3) Temporary real estate sign advertising the sale or rental of the premises upon which it is located provided it shall not exceed 6 square feet in area and shall be removed within 14 days after a deed of sale has been recorded or the premises are rented or leased.
- (4) Temporary signs in the "B" zoning districts provided they shall comply with the requirements of Section 908.

904.2: Prohibited Signs

All signs not expressly permitted or exempt from regulation under the zoning ordinance shall be prohibited in the Township. Such signs include but are not limited to:

- (1) Roof signs or integral roof signs.
- (2) Portable signs except as permitted temporary signs.
- (3) Animated or flashing signs except for a "time and temperature" portion of a sign permitted only in a "B" zoning district.
- (4) Beacons, pennants; inflatable signs, and tethered balloons, except as permitted temporary signs.

- (5) Strings of lights not permanently mounted to a rigid background, except as permitted temporary signs.

904.3: Other General Requirements

All signs shall be designed, constructed, and maintained in accordance with the following standards:

- (1) Except for banners, flags, temporary signs and window signs conforming in all respects with the requirements of this ordinance, all signs shall be constructed of permanent materials and shall be permanently attached to the ground, a building or another structure by direct attachment to a rigid wall, frame or structure.
- (2) All signs shall be maintained in good structural condition, in compliance with all building and electrical codes, and in conformance with this ordinance, at all times.
- (3) Any sign which projects or is placed or erected over a public way shall provide a vertical clearance of 9 feet above a sidewalk, private drive or parking lot and 12 feet above a public street.
- (4) No direct light or significant glare from any sign shall be cast onto any zone lot that is zoned and used for residential purposes.
- (5) Bare bulb lighting or neon lighting, unshielded from the passing public shall be prohibited.
- (6) A sign shall not be an imitation of or resemble official traffic control signs or devices and any sign within fifty (50) feet of an intersection shall not contain any visible green, yellow or red colored lights which might be confused with official traffic control devices.
- (7) A sign shall not be placed so as to prevent free ingress to or egress from any door or fire escape, to cause danger to traffic on a street by obscuring the view or to otherwise interfere with traffic.

Section 905: Signs in the Public Right-of-Way

No signs shall be allowed in the public right-of-way except for the following:

905.1: Permanent Signs

Permanent signs, including:

- (1) Public signs erected by or on behalf of a governmental body to post legal notices, identify public property, convey public information and direct or regulate pedestrian or vehicular traffic;
- (2) Bus stop signs erected by a public transit company;
- (3) Informational signs of a public utility regarding its poles, lines, pipes or facilities; and
- (4) Awning, projecting and suspended signs projecting over a public right-of-way in conformity with the conditions of Table 904 of this ordinance.

905.2: Temporary Signs

Temporary signs for which a permit has been issued in accordance with Section 909, and which shall meet the following requirements:

- (1) Such signs shall contain no commercial message; and
- (2) Such signs shall be no more than two square feet in area each.

905.3: Emergency Signs

Emergency warning signs erected by a governmental agency, a public utility company or a contractor doing authorized or permitted work within the public right-of-way.

905.4: Other Signs Forfeited

Any sign installed or placed on public property, except in conformance with the requirements of this section, shall be forfeited to the public and subject to confiscation. In addition to other remedies hereunder, the Township shall have the right to recover from the owner or person placing such a sign the full costs of removal and disposal of such sign.

Section 906: Signs Exempt from Regulation Under this Ordinance

The following signs shall be exempt from regulation under this Ordinance:

- (1) Any public notice or warning required by a valid and applicable federal, state, or local law, regulation, or ordinance;
- (2) Any sign inside a building, not attached to a window or door, that is not legible from a distance of more than three feet beyond the lot line of the zone lot or parcel on which such sign is located;

- (3) Election and political campaign signs located on private property provided they contain no commercial message, are erected no sooner than 120 days prior to the election date in which the candidate or issue is up for vote, and are removed no later than 14 days after said election;
- (4) Posters no larger than 3 square feet in area located on private property which promote community events and programs and contain no commercial message;
- (5) Works of art that do not include a commercial message;
- (6) Holiday lights with no commercial message, but only between November 15 and January 15; and
- (7) Traffic control signs on private property, such as Stop, Yield, and similar signs, the face of which meet Department of Transportation standards and which contain no commercial message of any sort.

Section 907: Permits and Permit Procedures for Signs

All signs, except those enumerated in this section, shall require a permit from the Zoning Officer prior to their construction, placement, erection, or modification. No sign permit of any kind shall be issued for an existing or proposed sign unless such sign complies with the provisions of this ordinance.

907.1: Permit Not Required

Sign permits shall not be required for the following signs provided that all such signs comply with the other applicable requirements of this ordinance:

- (1) Identification signs.
- (2) Building marker signs.
- (3) Incidental signs.
- (4) Flags.
- (5) Temporary real estate signs as permitted in Section 904.1 (3).
- (6) Traffic or other information signs erected by or on behalf of a governmental authority, transit company, or public utility as permitted in Section 1205.1 (1), (2), and (3).

- (7) Emergency signs as permitted in Section 905.3.

907.2: Applications for Sign Permit

All applications for sign permits of any kind shall be submitted to the Zoning Officer in such form as he may prescribe and shall contain at least the following information:

- (1) Name, address and telephone number of the applicant.
- (2) A map showing the location of the building, structure or zone lot to which the sign is to be attached or erected, and showing the position of the sign in relation to nearby buildings and thoroughfares, and should show dimensions.
- (3) A plan showing design of sign, materials used, method of construction, dimensions of the sign, and means of attachment to the building or the ground; such plans must be to scale or show dimensions.
- (4) Name of person, firm, corporation or association erecting, altering or moving said sign.
- (5) Written consent of the owner of the land on which the sign is to be erected, altered or relocated.
- (6) Any other information as the Zoning Officer shall require in order to show full compliance with this and all other applicable laws of the Township.

907.3: Master Signage Plan

If more than one new sign requiring a permit is proposed for a zone lot or if one or more additional new signs requiring a permit are proposed for a zone lot with an existing sign, a master signage plan shall be submitted to the Zoning Officer along with the application for individual sign permits. The master signage plan shall indicate the types, dimensions, area and total combined sign area for all proposed and existing individual signs of any type, requiring a permit or not, except for incidental signs. A revised master signage plan shall be submitted to the Zoning Officer if modification is proposed to any individual sign covered by an existing master signage plan.

907.4: Sign Permit Fees

Applications for sign permits shall be accompanied by a fee in an amount as prescribed by resolution of the Township Board of Supervisors.

907.5: Action on Sign Permit Application

The Zoning Officer shall act on all applications for sign permits in accordance with the procedures contained in Sections 1303.1, 1303.3, and 1303.4 of the zoning ordinance. In addition, the Zoning Officer shall not issue a sign permit unless a master signage plan, where appropriate in accordance with Section 907.3, has been submitted and indicates compliance with the zoning ordinance.

Section 908: Temporary Sign Permits (Private Property)

Temporary signs permitted in the "B" Zoning Districts shall be allowed on private property only upon the issuance of a temporary sign permit subject to the following requirements:

908.1: Term

A temporary sign permit shall allow the use of a temporary sign for a specified 30-day period.

908.2: Number

Only two temporary sign permits shall be issued to the same property owner on the same zone lot in any calendar year.

Section 909: Temporary Sign Permits (Public Right-of-Way)

Temporary signs for which a permit is required by this ordinance shall be allowed in the public right-of-way in accordance with Section 905.2 and only upon the issuance of a temporary sign permit subject to the following requirements:

909.1: Term and Number of Permits

The term of such a permit shall be 60 days. No more than one permit for temporary signs shall be issued to any applicant in any calendar year. For any sign containing the name of a political candidate, the candidate shall be deemed to be the applicant.

909.2: Number of Signs

No more than 20 signs may be erected under one permit.

909.3: Deposit Fee

In addition to the applicable fees otherwise payable, the applicant shall pay a deposit fee of \$50.00 per approved temporary sign permit. Such deposit fee shall be fully refundable upon the surrender to the Zoning Officer of the actual sign(s) for disposal or, where not all signs are surrendered, shall be refundable in proportion to the percentage of total permitted signs surrendered for disposal.

Section 910: Termination of Non Conforming Signs

910.1: Removal of Non-Conforming Signs

When a non-conforming sign is taken down or moved for any reason, the same may not again be erected or reestablished or permitted to remain at any location on the property without the prior issuance of a sign permit, and in such case, no sign permit shall be issued unless the sign is then made to conform with all regulations applicable to new signs.

910.2: Damaged or Destroyed Non-Conforming Signs

A sign damaged or destroyed by any means to an extent of more than fifty percent (50%) of its replacement cost at time of destruction shall not be reconstructed except in conformity with the provisions of this ordinance unless a variance is granted by the Zoning Hearing Board. Replacement cost shall be determined by obtaining cost of construction from one (1) sign contractor mutually agreed to by the owner and the Township.

910.3: Signs Erected in Violation

The Zoning Officer or his authorized agent shall have the authority to order the removal of any sign erected after the effective date of this ordinance in violation of the ordinance.

910.4: Obsolete Signs

Any sign now or hereafter existing which no longer advertises or identifies a bonafide business conducted or a product sold upon the premises, shall be taken down and removed by the owner of the building or structure or land upon which such sign may be found, within ten (10) days after written notification from the Zoning Officer, such notice to be sent by certified mail.

ARTICLE X

PARKING AND LOADING REGULATIONS

Section 1000: Off-Street Parking and/or Loading Facility Requirements

1000.1: New Use of a Structure and/or Land

Parking and/or loading facilities for new uses of any structure or land shall be provided in accordance with the following schedules.

1000.2: Increase in Intensity of Use of a Structure and/or Land

The intensity of use of a structure and/or land shall not be increased through the addition of dwelling units, rooming units, gross floor area, lot area, or other units of measurement prescribed unless accessory parking and/or loading facilities shall be provided in accordance with the following schedules.

1000.3: Change in Use of Structure and/or Land

An existing use of a structure and/or land shall not be changed to a new use, unless parking and/or loading facilities shall be provided as required in the following schedules for such new use.

1000.4: Size of Parking and Loading Spaces

- (1) Parking Space - Not less than nine (9) feet wide and twenty (20) feet long.
- (2) Loading Space - Not less than ten (10) feet wide and forty-five (45) feet long and fourteen (14) feet high.
- (3) Space Shall Not Include: Aisles or turnaround area.

1000.5: Required Parking Spaces for Each Use

(1) Residential Uses	Required Parking Spaces
(a) One and Two Unit Dwellings, Including Mobile Homes on Individual Lots	2.0 for each dwelling unit.
(b) Three or More Unit Dwellings	1.5 per dwelling unit.
(c) Housing for Elderly Persons	0.5 for each dwelling unit.

(d) Boarding House or Boarding Units, as Accessory to Dwelling Unit	1.5 for each sleeping unit.
(e) Home Occupation	2.0 in addition to spaces required for the dwelling.
(f) Bed and Breakfast House	1.0 per guest room and 2.0 for the proprietor

(2) Agricultural Uses	Required Parking Spaces
(a) Agricultural Products Processing	1 for each 500 square feet of gross floor area.
(b) Experimental Station	1 for each 500 square feet of gross floor area.
(c) Grange Hall, Sportsmen Club, or Similar Use	1 for each 200 square feet of gross floor area.
(d) Nursery or Greenhouse	1 for each 100 square feet of gross floor area.
(e) Stand for Sale of Agricultural Products	5
(f) Farm	No requirement beyond spaces for each farm dwelling.

(3) Business Uses	Required Parking Spaces
(a) Retail or Personal Service Establishments and Regional Shopping Centers	1.0 for each 200 square feet of gross floor area plus 5.0 waiting spaces per drive-in lane plus 1.0 per employee on the largest shift.
(b) Business and Public Office Establishments (Other than Personal Services)	1.0 for each 250 square feet of gross floor area.
(c) Eating and/or Drinking Establishment	1.0 per 100 square feet of gross floor area, plus 1.0 per employee on the largest shift.
(d) Food and Grocery Store	1.0 per 100 square feet of gross floor area of customer sales and service plus 1.0 per 200 square feet of gross floor area of storage.

(e)	Health Service Establishment	5.0 per doctor.
(f)	Hotel, Motel	1.0 for each sleeping room plus 1.0 for each 100 square feet of restaurant floor area.
(g)	Commercial Recreation Uses (Other than Bowling Alleys)	1.0 for each 3 units of rated patron capacity.
(h)	Campground	1.5 per each tent site, plus 1.0 per employee on the largest shift.
(i)	Recreational Vehicle Park	1.5 per each recreational vehicle site, plus 1.0 per employee on the largest shift.
(j)	Bowling Alleys	5.0 per alley.
(k)	Mortuary or Funeral Home	A minimum of 25 per chapel unit, plus 2.0 for each dwelling unit and 1.0 for each employee.
(l)	Meeting Place for Clubs (Fraternal, Social, etc.)	1.0 per three (3) persons to the rated patron capacity.
(m)	Motor Vehicle Sales and Service	1.0 for each 1,500 square feet of gross floor area, plus 1.0 per employee on the largest shift.
(n)	Automotive Service Establishment	1 for each 500 square feet of gross lot area or 1 for each 200 square feet of gross floor area whichever requires the greater number of spaces.

(4) Industrial Uses

Required Parking Spaces

(a)	Warehouse or Wholesaling	1.0 per employee on the largest shift, plus 1.0 per 4,000 square feet of gross floor area.
(b)	Truck Terminal	1.0 per employee on the largest shift, plus 1.0 per truck normally parked on the premises.
(c)	Other Industrial Uses	1.0 per employee on the largest shift, plus 1.0 per company vehicle regularly stored on premises.

(5) Community Facilities	Required Parking Spaces
(a) Governmental Facility, Service Structure, and/or Use (Other than a place of public assembly)	1.0 for each employee on the largest shift plus 1.0 per vehicle normally stored on the premises.
(b) Community and Recreation Center	1.0 per three (3) patrons of rated patron capacity, plus 1.0 per employee on the largest shift; or 1.0 per 250 square feet of gross floor area.
(c) Church, Synagogue or Other Place of Worship	1.0 for each three (3) units of seating capacity.
(d) Essential Services (Public Utility Facility, Service Structure, and/or Use other than an office establishment)	1.0 for each employee but not less than 3.0 spaces.
(e) Schools, Classroom Buildings: (1) Elementary and Junior High	1.0 per teacher and staff member, plus 1.0 per each two (2) classrooms.
(2) Senior High	1.0 per teacher and staff member, plus 1.0 per five (5) nonbused students.
(3) College	1.0 per staff member on the largest shift, plus 1.0 per 2 students of the largest class attendance period.
(4) Commercial or Trade	1.0 per 3 students, plus 1.0 per employee (including faculty) at capacity class attendance period.
(5) Day or Nursery School	1.0 per teacher and other employees on the largest shift, plus 1.0 per each six (6) students.
(f) Group Housing - Dormitory, Fraternity House, Sorority House, Nurses House, Youth Home, or Similar Institutional Housing	1.0 for each sleeping room.

(g) Convalescent Home, Institutional Home, Nursing Homes	1.0 per six (6) patient beds, plus 1.0 per employee on the largest shift, plus 1.0 per staff member and visiting doctor.
(h) Place of Public Assembly such as an Auditorium, Hall, Gymnasium, or Theater	1.0 for each 3 units of seating capacity.
(i) Hospital	2.0 per each 3 patient beds, plus 1.0 per staff doctor and employee on the largest work shift.
(6) Mixed Uses	Required Parking Spaces
(a) Any Mixed Uses	The sum of the various uses computed separately.

1000.6: Required Loading Spaces for Each Use

(1) Multi-Family Structures with five (5) or more Dwelling Units	1.0 spaces.
(2) Retail and Wholesale Merchandising, Manufacturing Storage or Processing:	
(a) 5,000 - 25,000 square feet of gross floor area	1.0 spaces.
(b) 25,000 - 40,000 square feet of gross floor area	2.0 spaces.
(c) 40,000 - 60,000 square feet of gross floor area	3.0 spaces.
(d) 60,000 - 100,000 square feet of gross floor area	4.0 spaces.
(e) For each additional 50,000 square feet of gross floor area or major fraction thereof	1.0 additional spaces.
(3) Schools having 15,000 square feet or more of gross floor area	1.0 space.
(4) Hospitals (in addition to space for ambulances):	
(a) 10,000 - 30,000 square feet of gross floor area	1.0 space.
(b) For each additional 30,000 square feet of gross floor area or major fraction thereof	1.0 additional space.

(5) Mortuary or Funeral Home:

(a) 3,000 to 5,000 square feet of gross floor area 1.0 space.

(b) For each additional 5,000 square feet
of gross floor area or major fraction thereof 1.0 additional space.

(6) Hotels, Motels and Offices with 5,000
or more square feet of gross floor area 1.0 space.

Section 1001: General Provisions

1001.1: Location of Required Parking Facilities

The parking spaces required for the use listed in the above schedule shall be on the same lot as the use they are intended to serve, except that the Zoning Officer may permit the parking spaces to be on any lot wholly within three-hundred (300) feet of the building if it determines it is impractical to provide space on the same lot with the building. In such cases where the required spaces are provided off the site, such space shall be in the same ownership as the use to which they are accessory or be public parking spaces. Where parking spaces are provided on a lot of the same ownership, said lot shall be subject to deed restrictions filed in an office of record, binding the owner and his heirs and/or assigns to maintain the required number of spaces available throughout the life of such use, and such spaces shall conform to all regulations of the district in which they are located.

1001.2: Location of Required Loading Facilities

The loading spaces required for the uses listed in the foregoing schedule shall in all cases be on the same lot as the use they are intended to serve. In no case shall the required loading space be part of the area used to satisfy the parking requirements of the Zoning Ordinance.

1001.3: Use of Required Parking and/or Loading Facilities by Another Use

Any part of the parking and/or loading facilities required for any use for the purpose of complying with the regulations of the Zoning Ordinance shall not be included as part of a parking and/or loading facility similarly required for another use unless the type of use indicated that the periods of usage shall not be simultaneous with each other as determined by the Zoning Officer.

1001.4: Use of Yards for Driveways and Parking

Yard areas may contain permitted driveways and turnaround areas and may also include off-street parking spaces.

1001.5: Encroachment and Reduction

A required parking and/or loading space shall not be encroached upon by a structure, storage or any other use, nor shall the number of spaces be reduced.

1001.6: Off-Street Parking and Loading Spaces for Uses Not Specifically Mentioned

For any use not specifically mentioned in the previous sections, the requirements for off-street parking and off-street loading facilities are the same as for a similar use that is specifically mentioned. In such a case, either the Zoning Officer or the applicant for the Certificate of Occupancy or Building Permit may apply to the Zoning Hearing Board for an interpretation of the provisions of this Ordinance for such off-street parking and off-street loading requirements, and the Zoning Hearing Board shall render a decision in writing in the manner provided for in this Ordinance.

ARTICLE XI

SUPPLEMENTARY REGULATIONS

Section 1100: Supplementary Use Regulations

1100.1: Essential Services

Essential services, as defined in the Zoning Ordinance, shall be permitted in any Zoning District.

1100.2: Home Occupations

Home occupations, as defined in this ordinance, shall be permitted only in the Residential-Agricultural Zoning District. A home occupation shall require the submission of a Letter of Classification of Use to the Zoning Officer. Such a letter shall address a specific use. The Zoning Officer shall decide requests for a Letter of Classification of Use based upon the intent of the home occupation provisions and experience with similar uses. When the Zoning Officer approves of a use as a Home Occupation, that use and the location of the use will be added to a supplemental list of Permitted Uses as Home Occupations. In addition, when the Zoning Officer denies a use as a Home Occupation, that use and the location of the use will be added to a supplemental list of Prohibited Uses a Home Occupations. The decision of the Zoning Officer may be appealed to the Zoning Hearing Board.

1100.3: Alteration of an existing Dwelling Structure for the Addition of Dwelling Units

An existing principal dwelling structure in any Residential Zoning District only may be altered internally without enlargement or construction of new buildings for the addition of dwelling units and be exempt from conditional approval for multiple-family dwellings. Such alteration and addition of dwelling units shall comply with all other applicable provisions of his Ordinance.

Section 1101: Supplementary Lot and Yard Regulations

1101.1: Number of Principal Structures on a Lot

Except in the case of permitted planned development for an agricultural processing establishment, cemetery, church, college, tent campground, multiple-family dwelling development, farm, governmental or governmental authority facility, hospital, nursing home,

public utility facility, school or planned commercial or industrial development, not more than one principal structure shall be located on a lot.

1101.2: Temporary Mobile Homes

The placement of a mobile home on a temporary basis on the same lot occupied by a principal structure may be permitted provided:

- (1) The mobile home shall be located a minimum distance of at least 30 feet from the principal structure and shall comply with the rear yard requirement for principal structures in the zoning district.
- (2) The mobile home placement shall be for a period of no more than five (5) years. However, an extension of time may be granted by the Township Supervisors upon request by the property owner.
- (3) The occupant of the mobile home shall be a relative of the property owner and shall indicate the relationship and intent to occupy the mobile home by consigning the permit application.

1101.3: Subdivision of Lot

The subdivision of lot(s) shall only be permissible if in accordance with this Zoning Ordinance and the Mercer County Subdivision and Land Development Ordinance.

1101.4: Yard, Width and Area Exceptions for a Lot of Record

A one-family detached dwelling may be constructed on any lot of record at the effective date of the Zoning Ordinance.

1101.5: Determination of Yards and Minimum Distance to Lot Lines on Irregularly Shaped Lots

On an irregularly shaped lot, no point of a building shall be located closer to a lot line than the minimum yard or setback distance.

1101.6: Projection into and Occupancy of Yards or Other Open Spaces

The following building attachments shall be permitted to project into and/or occupy required yards or other open spaces:

- (1) Steps, Stoop, Window Sill, Awning, Belt Course, Similar Architectural Feature, Rain Leader and/or Chimney - Provided it shall not project more than four (4) feet beyond the face of the wall.
- (2) Exterior Stairway, Fire Tower, Balcony, Fire Escape or Other Required Means of Egress - Provided it shall not project more than four (4) feet beyond the face of the wall.

1101.7: Porches, Carports, and Similar Attached Accessory Structures Whether Open or Enclosed

Shall be located in compliance with minimum yard and setback requirements.

1101.8: Fences

Except as provided in Section 1101.9, the yard and setback requirements of this Ordinance shall not be deemed to restrict any otherwise lawful fence, wall or sign, provided that:

- (1) No fence, wall or sign shall be located on any right-of-way of a public road.
- (2) Farms, as defined by this ordinance, shall be exempt from all fencing regulations.
- (3) Signs shall comply with sign setback requirements contained in Article IX.

1101.9: Visibility at Intersections

On a corner lot in any district, no structure, sign, solid fence or wall, hedge or other planting shall be erected, placed or maintained at a height of more than thirty (30) inches above the curb line within the triangle formed by the street lines and a straight line joining said street lines at points which are thirty (30) feet distant from the point of intersection.

Section 1102: Supplementary Height Regulations

1102.1: Height Measurement

Measurement of height shall be the vertical height from the elevation of finished grade at the front of the structure to:

- (a) In the case of flat roof structures - highest point of coping.
- (b) In the case of mansard roof structures - deck line of roof.

- (c) In the case of gable or hipped roof - average height of roof peaks.

1102.2: Height Regulations Not Apply

The maximum height limitations for this Section shall not apply to:

- (1) The Following Principal Structures : Church, college, farm structure (other than a farm dwelling), hospital, cellular phone, radio or television tower, or public utility structure which is a permitted use and is located in any Zoning District, provided:
 - (a) It shall conform to the setback and yard requirements of the Zoning District where it is located plus 1 additional foot horizontally for each foot over 40 feet in height.
- (2) The Following Appurtenances Attached to or Part of a Principal or Accessory Structure: Church spire, belfry, cupola, dome, monument, smoke- stack, derrick, conveyor, flag pole, mast, antenna, aerial, roof tank; ventilating air conditioning and similar building service equipment; roof structure, chimney and/or parapet wall, provided:
 - (a) It shall be set back in conformance with the setback and yard requirements plus 1 foot horizontally for each foot in which it exceeds 40 feet in height above ground level. The principal or accessory structure to which it is attached may conform to setback and yard requirements with no additional setback provided the principal or accessory structure conforms to the height limitations of the zoning district.
- (3) Existing Designed Structures : The vertical extension of a structure existing at the effective date of the Zoning Ordinance may be erected to such height as the original drawings of said building indicated, provided:
 - (a) The building was actually designed and constructed to carry the additional stories necessary for such height.

Section 1103: Mineral Excavation Regulations

1103.1: General

Excavation of sand, gravel, coal, oil, natural gas or other minerals from the ground may only be permitted in any Zoning District as a conditional use upon application to and approval by the New Vernon Township Board of Supervisors, after referral to the New Vernon Township Planning Commission for review and recommendations. Conditional approval and these regulations do not apply where such excavation activities are to be conducted

entirely as a non-commercial accessory or subordinate use to a principal use permitted by the Zoning District.

1103.2: Conditions

Prior to approval of the excavation activities by the Township Supervisors, the applicant for a conditional use shall comply with the following conditions:

- (1) An approved permit from the Pennsylvania Department of Environmental Resources shall be presented to the Township Supervisors.
- (2) The applicant shall guarantee that a notice of the final inspection conducted by the Department of Environmental Resources will be provided to the Township Supervisors in order that the Supervisors have the opportunity to participate in the inspection.

ARTICLE XII

NON-CONFORMING USES, STRUCTURES AND LOTS

Section 1200: Intent and Standards

Within the districts established by this ordinance or amendments that may later be adopted there exist lots, structures, and uses of land and structures which were lawful before this ordinance was passed or amended, but which would be prohibited under the terms of this ordinance or future amendment.

It is the intent of this ordinance to permit these non-conformities to continue until they are removed. Such uses are declared by this ordinance to be incompatible with permitted uses in the districts involved. Non-conformities may be enlarged and expanded only by the approval of the Zoning Hearing Board.

A non-conforming use of a structure, a non-conforming use of land, or non-conforming use of a structure and land shall not be extended or enlarged after passage of this ordinance by attachment of additional signs to a building, or the placement of additional signs or display devices on the land outside the building, or by the addition of other uses, if such additions are of a nature which would be prohibited generally in the district involved.

Nothing in this ordinance shall be deemed to require a change in the plans, construction, or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this ordinance and upon which actual building construction has been diligently carried on. Actual construction is defined to include the placing of construction materials in permanent position and fastened in a permanent manner, and demolition, elimination, and removal of an existing structure in connection with such construction, provided that actual construction work shall be diligently carried on until the completion of the building involved.

Section 1201: Non-Conforming Lots of Record

In any district in which single-family dwellings are permitted, notwithstanding limitations imposed by other provisions of this ordinance, a single-family dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of this ordinance. Such lot must be in separate ownership and not of continuous frontage with other lots in the same ownership. This provision shall apply even though such lots fails to meet the requirements for area or width, or both, that are applicable in the district, provided that yard dimensions and other requirements not involving area or width, or both, of lot shall conform to the regulations for the district in which such lot is located. Variance of

yard requirements and other requirements not involving area or width, or both, of lot shall be obtained only through action of the Zoning Hearing Board .

If two or more lots or combinations of lots and portions of lots with continuous frontage in single ownership are of record at the time of passage or amendment of this ordinance, and if all or part of the lots do not meet the requirements for lot width and area in the respective district, the lands involved shall be considered to be an undivided parcel for the purpose of this ordinance, and no portion of said parcel shall be used or sold which does not meet lot width and area requirements established by this ordinance, nor shall any division of the parcel be made which leaves remaining any lot with width or area below the requirements stated in this ordinance.

Section 1202: Non-Conforming Uses of Land

Where, at the effective date of adoption or amendment of this ordinance, lawful use of land exists that is made no longer permissible under the terms of this ordinance as enacted or amended, such use may be continued, so long as it remains otherwise lawful, subject to the following provisions:

1202.1 - No such non-conforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this ordinance, except as specified by Section 1400 of this ordinance.

1202.2 - No such non-conforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this ordinance.

1202.3 - If any such non-conforming use of land ceases for any reason for a period of more than twelve (12) consecutive months, any subsequent use of such land shall conform to the regulations specified by this ordinance for the district in which such land is located.

Section 1203: Non-Conforming Structures

Where a lawful structure exists at the effective date of adoption or amendment of this ordinance that could not be built under the terms of this ordinance by reason of restrictions on areas, lot coverage, height, yards, or other characteristics of the structure or its location on the lot, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

1203.1 - A structure may be enlarged or altered in a reasonable amount only as approved by the Zoning Hearing Board.

1203.2 - Should such structure be destroyed by any means to an extent of more than 50% of its replacement cost at time of destruction, it shall not be reconstructed except in conformity with the provisions of this ordinance unless a variance is granted by the Zoning Hearing Board.

1203.3 - Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after moved.

Section 1204: Non-Conforming Uses of Structures

If a lawful use of a structure, or of a structure and premises in combination, exists at the effective date of adoption or amendment of this ordinance, that would be allowed in the district under the terms of this ordinance, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:

1204.1 - An existing structure devoted to a use not permitted by this ordinance in the district in which it is located may be enlarged, extended, constructed, reconstructed, or structurally altered to any reasonable amount upon granting of a variance by the Zoning Hearing Board.

1204.2 - Any non-conforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of adoption or amendment of this ordinance, but no such use shall be extended to occupy any land outside such building.

1204.3 - If no structural alterations are made, any non-conforming use of a structure, or structure and premises, may be changed to another non-conforming use provided that the Zoning Hearing Board, either by general rule or by making findings in the specific case, shall find that the proposed use is equally appropriate or more appropriate to the district than the existing non-conforming use. In permitting such change, the Zoning Hearing Board may require appropriate conditions and safeguards in accord with the provisions of this ordinance.

1204.4 - Any structure, or structure and land in combination, in or on which a non-conforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district in which such structure is located, and the non-conforming use may not thereafter be resumed.

1204.5 - When a non-conforming use of a structure, or structure and premises in combination, is discontinued or abandoned for twelve (12) consecutive months, the structure and premises in combination, shall not thereafter be used except in conformance with the regulations of the district in which it is located.

1204.6 - Where non-conforming use status applies to a structure and premises in combination, removal or destruction of the structure shall eliminate the non-conforming status of the land.

1204.7 - Where a structure containing a non-conforming use is destroyed in whole or in part by fire, flood, explosion, or other casualty, it may be reconstructed and used as before provided such reconstruction is undertaken within twenty-four (24) months of such casualty and provided the restored structure shall not exceed the height and bounds of the original structure.

Section 1205: Repairs and Maintenance

On any building, devoted in whole or in part to any non-conforming use, work may be done on ordinary repairs, or on repair or replacement of non-bearing walls, fixtures, wiring, or plumbing without the requirement of a permit.

Nothing in this ordinance shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

Section 1206: Uses Granted Under Special Exception Provisions Not Non-Conforming Uses

Any use for which a special exception is permitted as provided in this ordinance shall not be deemed a non-conforming use, but shall without further action be deemed a conforming use in such district.

ARTICLE XIII

ADMINISTRATION AND ENFORCEMENT

Section 1300: Office of Zoning Officer

1300.1: Creation of Office

The Office of Zoning Officer is hereby created.

1300.2: Appointment

The Zoning Officer shall be appointed by the Township Board of Supervisors as prescribed by the Pennsylvania Municipalities Planning Code (Act 247 of 1968, as amended). The Township Board of Supervisors shall establish qualifications for the position of Zoning Officer which require candidates to demonstrate a working knowledge of municipal zoning to the satisfaction of the Township.

1300.3: Official Records

An Official Record shall be kept of all business of the Zoning Officer and shall be open to public inspection at all appropriate times.

1300.4: Compensation of the Zoning Officer

The compensation of the Zoning Officer shall be as determined by the Township Board of Supervisors.

Section 1301: Duties and Powers of the Zoning Officer

The Zoning Officer shall interpret and enforce all provisions of the Zoning Ordinance in accordance with its literal terms, and shall not have the power to permit any construction or any use or change of use which does not conform to the Zoning Ordinance.

1301.1: Permits and Certificates of Use and Occupancy

The Zoning Officer shall issue Permits and Certificates of Use and Occupancy. Permits and Certificates of Use and Occupancy for construction and uses which are permitted as a special exception or variance from the Zoning Ordinance shall be issued only upon order of the Zoning Hearing Board.

1301.2: Annual Report

The Zoning Officer shall annually submit to the Township Board of Supervisors a report of all Permits and Certificates of Use and Occupancy, notices issued and orders.

1301.3: Right of Entry

The Zoning Officer shall have the authority to enter at any reasonable hour any land and/or structure in the Township to inspect and to enforce the provisions of the Zoning Ordinance. Before entering, the Zoning Officer shall provide proper identification.

1301.4: Classification of Home Occupations

The Zoning Officer shall maintain and make available upon request to the public the supplemental lists of Permitted and Prohibited Uses as Home Occupations, as addressed in Article XI.

Section 1302: Application for Permit and Certificate of Use and Occupancy

1302.1: When Permit is Required

It shall be unlawful to erect, enlarge, construct, reconstruct or structurally alter any building and/or other structure or change the use, or extend or displace the use of any building, other structure and/or land in the Township without first filing an application with the Zoning Officer in writing and obtaining the required Permit.

1302.2: When a Certificate of Use and Occupancy is Required

It shall be unlawful to use and/or occupy any building, other structure and/or land for which a Permit is required until a Certificate of Use and Occupancy for such building, other structure and/or land has been issued by the Zoning Officer. The application for issuance of a Certificate of Use and Occupancy shall be made at the same time an application for a Permit is filed with the Zoning Officer.

1302.3: Forms of Application

The Application for a Permit and a Certificate of Use and Occupancy shall be submitted in such form as the Zoning Officer may prescribe and shall be accompanied by the required fee as prescribed in Section 1305.

1302.4: Plot Diagram

Applications shall be accompanied by a plot plan diagram in duplicate. The plot plan shall be drawn to a suitable scale and shall clearly and accurately show dimensions of buildings and lots, both existing and proposed, abutting streets, proposed uses of buildings and lots, north arrow and scale, and other information which the Zoning Officer may require to make a decision on the permit. One copy shall be returned to the applicant indicating approval or disapproval, one copy shall be retained by the Zoning Officer.

1302.5: Amendments to a Permit

Amendments to a permit or other records accompanying it may be filed at anytime before completion of the work. The Zoning Officer shall approve all such amendments except for those to permit which have been authorized by action of the Zoning Hearing Board in which case the Board shall approve any amendments. Amendments shall be deemed part of the original application.

1302.6: Expiration of Permits

If work described in any permit has not begun within 90 days from the date of issuance, the permit shall expire. A written notice shall be given by the Zoning Officer to the persons affected. If permitted work has not been substantially completed within one year of the date of issuance, the permit shall expire. A written notice shall be given by the Zoning Officer to the persons affected.

Upon expiration of a permit, work may not continue until either a permit renewal or a new permit has been obtained. The Zoning Officer may issue a permit renewal when the proposed activities, information, and conditions contained in the original permit application will be continued without change. The permit renewal shall include limitations on time not to exceed one year allowed for substantial completion of the work. The Zoning Officer may require the provision of a reasonable performance bond to ensure completion with the time limit specified in the permit renewal.

Section 1303: Additional Permit Application Requirements for Multiple Family Dwellings of 5 Units or More

1303.1: Multiple Family Residential Dwellings of 5 Units or More

All applicants for permits for such development shall meet the following requirements in addition to those contained in Section 1302:

- (1) Additional Application Requirements - Applications shall include three (3) copies of a site development plan prepared by a registered professional engineer, architect, or landscape architect, which includes at least the following information:
 - (a) Property survey and/or deed description describing boundary lines and acreage for all property to be developed.
 - (b) Existing and proposed topography using elevation contours at a 2 foot contour interval and showing proposed grading and existing natural features and proposed changes thereto.
 - (c) A plan showing proposed sewer and water facilities prepared according to applicable regulations of the Pennsylvania Department of Environmental Resources or, where tap-in to the Township public sewerage or water system is proposed, a diagram showing the location and size of public sewerage or water facilities serving the development.
 - (d) Location of proposed drives and parking areas including arrangement and number of parking spaces.
 - (e) Open space and landscaping plan including any proposed improvement to and within open space areas plus typical planting plans.
 - (f) Typical floor plans and building elevations.
 - (g) Any restrictions in the form of covenants, grants, easements, or other restrictions imposed upon the use of land or structures.
 - (h) A drainage plan showing courses and structures for conveying and managing storm water runoff.
- (2) Application Review - Upon receipt of a complete development application, the Zoning Officer shall forward one copy to the Township Planning Commission and one copy to the Township Board of Supervisors for review. The Township Planning Commission and Township Board of Supervisors shall be provided at least 31 days prior to permit issuance for review of the application in order that they may review and discuss the application at a regular, monthly meeting.
- (3) Permit Issuance - The Zoning Officer shall issue either an approved permit or a written notice of disapproval within 45 days of receipt of the permit application.

1303.2: Proposed Construction or Development located Partially or Entirely within a Flood Plain District

All applicants for such construction or development shall meet the following requirements in addition to those contained in Section 1302:

- (1) Additional Application Requirements - If any proposed construction or development is located entirely or partially within the Flood Plain District, applicants for permits shall provide additional information required herein in sufficient detail and clarity to enable the Zoning Officer to determine that:
 - (a) All such proposals are consistent with the need to minimize flood damage.
 - (b) All utilities and facilities, such as sewer, gas, electrical and water systems are located, elevated and constructed to minimize or eliminate flood damage, and
 - (c) Adequate drainage is provided so as to reduce exposure to flood hazards.
- (2) Such additional information shall include at least the following:
 - (a) Topographic contour lines, both existing and proposed.
 - (b) A diagram of the site showing property lines, location of existing and proposed structures and other improvements, locations of existing and proposed roads and driveways, and location of existing and proposed water supply and sanitary sewer facilities.
 - (c) The location of any existing watercourses or bodies of water showing flood hazard areas and, if available, information pertaining to the direction and velocities of the flow of water.
 - (d) Plans of all proposed structures or other improvements showing the proposed lowest floor (including basement) elevation of any proposed structure, the elevation of the one-hundred (100) year flood, detailed information concerning any proposed flood-proofing, and, if available, information concerning flood depths, pressures, impact, and uplift forces associated with a one-hundred year flood.
 - (e) A document certified by a registered professional engineer or architect that the proposed construction has been adequately designed against flood damage and that the plans for the development of the site adhere to the restrictions cited in Section 704 of the Zoning Ordinance. Such statement shall include a description

of the type and extent of flood-proofing measures which have been incorporated into the design of the structure.

(3) Other Permit Issuance Requirements:

- (a) Prior to any proposed alteration or relocation of any stream or any watercourse, etc., within the municipality, a permit shall be obtained from the Department of Environmental Resources, Bureau of Dams and Waterways Management. Further notification of the proposal shall be given to all affected adjacent municipalities. Copies of such notifications shall be forwarded to both the Federal Emergency Management Agency and the Department of Community Affairs.
 - (b) Prior to the issuance of any building permit, the Zoning Officer shall review the application for permit to determine if all other necessary governmental permits required by State and Federal Laws have been obtained including those required by the Pennsylvania Sewage Facilities Act (Act 1966-537, as amended), the Pennsylvania Clean Streams Act (Act 1937-394, as amended), the Pennsylvania Dam Safety and Encroachments Act (Act 1978-325, as amended), and the U.S. Clean Water Act, Section 404, 33, U.S.C. 1334.
- (4) Review by County Conservation District - A copy of all applications and plans for any proposed construction or development in the Flood Plain District to be considered for approval shall be submitted by the Zoning Officer to that County Conservation District for review and comment prior to the issuance of a permit. The recommendations of the Conservation District shall be considered by the Zoning Officer for possible incorporation into the proposed plan.
- (5) Review of Application by Others - A copy of all plans and applications for any proposed construction or development in the Flood Plain District to be considered for approval may be submitted by the Zoning Officer to any other appropriate agencies and/or individuals (e.g., planning commission, municipal engineer, etc.) for review and comment.

Section 1304: Action on Permits and Certificates of Use and Occupancy

1304.1 - Action on Permit Application

The Zoning Officer shall act on all applications for Permits and amendments thereto within 10 days after filing except where otherwise indicated. He shall conduct a preliminary inspection of all structures and/or land for which an application has been filed for a Permit. If the application and preliminary inspection indicate compliance with the Zoning Ordinance, a Permit shall be issued. Disapproval of a Permit shall be in writing to the applicant.

1304.2 - Posting of Permit

The Permit issued by the Zoning Officer shall be posted at the work site and be visible from the street until the completion of the permitted work.

1304.3 - Revoking a Permit

The Zoning Officer may revoke an issued Permit in case of any false statement in the application for the Permit.

1304.4 - Action Upon Completion

Upon completion of the permitted work and prior to use and occupancy, the holder of the permit shall notify the Zoning Officer of such completion. After receiving notice of completion, the Zoning Officer shall conduct a final inspection of all permitted structures and/or land. All violations of the approved permit and plans shall be recorded and presented in writing to the holder of the permit.

If the Zoning Officer is satisfied that the completed work conforms with the issued Permit and complies with the Zoning Ordinance, he shall issue a Certificate of Use and Occupancy for the use indicated in the Permit.

The Zoning Officer shall conduct the final inspection and issue either a written record of violations or an approved Certificate of Use and Occupancy within 10 days after receiving notice.

Section 1305: Fees

1305.1: Payment of Fees

No Permit or Certificate of Use and Occupancy shall be issued until the fees prescribed by resolution of the Township Board of Supervisors have been paid.

1305.2: Exemptions

Any accessory structure used solely for agricultural purposes or any building less than 100 square feet in floor area shall be exempt from payment of fees.

Section 1306: Enforcement Notice

Where the Zoning Officer finds that any provisions of this Ordinance are being violated, he shall initiate enforcement proceedings by sending an enforcement notice to appropriate parties

in accordance with Article VI of the Pennsylvania Municipalities Planning Code (Act 247 of 1968, as amended). As specified in the Planning Code, the enforcement notice shall state the nature of the violation, the actions and deadline dates for achieving compliance, possible enforcement proceedings, and other information.

Section 1307: Prosecution of Violation

If the Enforcement Notice is not complied with, the Zoning Officer shall request the Township Solicitor to institute appropriate proceedings to correct such violations. Such proceedings are provided for and shall be in accordance with Article VI of the Planning Code (Act 247 of 1968, as amended).

ARTICLE XIV

ZONING HEARING BOARD

Section 1400: Creation, Membership and Organization

A Zoning Hearing Board shall be created for the purpose of considering applications for variances or exceptions to the Zoning Ordinance and making decisions on appeals and challenges within the legal jurisdiction granted to zoning hearing boards by the Commonwealth of Pennsylvania. It shall be created and maintained in accordance with the applicable provisions of Article IX of the Pennsylvania Municipalities Planning Code (Act 247 of 1968, as amended) and this Ordinance. Its membership, organization and rules and procedures shall be as prescribed in the Planning Code.

Section 1401: Jurisdiction and Functions

The Zoning Hearing Board shall have exclusive jurisdiction to hear and render decisions on applications for variances and special exceptions, and certain challenges and appeals in accordance with all applicable requirements of Article IX of the Pennsylvania Municipalities Planning Code (Act 247 of 1968, as amended).

Section 1402: Hearings

In consideration of challenges and appeals and applications for variances and special exceptions, the Zoning Hearing Board shall conduct hearings and make decisions in accordance with all applicable requirements of Article IX of the Pennsylvania Municipalities Planning Code (Act 247 of 1968, as amended).

Section 1403: Termination and Modification of Permit

Where a decision of the Zoning Hearing Board authorizes issuance of a zoning permit, the following shall apply:

1403.1: Termination of Permits

If after a Permit has been authorized by the Board, such permit is not applied for within a period of six (6) months from the date of authorization, then such authorization shall be null and void and no Permit shall be issued thereunder.

1403.2: Modification of a Permit

Any Permit so issued shall not be modified except by action of the Board.

Section 1404: Parties Appellant Before the Board

Appeals and challenges within the jurisdiction of the Zoning Hearing Board as prescribed by the Planning Code may be filed with the Board in writing by the landowner affected, any officer or agency of the municipality, or any person aggrieved. Applications for variance or special exception may be filed with the Board by any landowner or tenant with the permission of such landowner.

Section 1405: Applications and Fees

Requests for a hearing and action for appeals, challenges, variances, or special exceptions shall be accompanied by an application in such form as shall be required by the Zoning Hearing Board and submitted to the Zoning Officer. Such application shall include payment of a reasonable fee based upon cost to be established by resolution of the Township Board of Supervisors and in accordance with the Pennsylvania Municipalities Planning Code (Act 247 of 1968, as amended).

Section 1406: Special Exceptions

Upon application in accordance with the provisions of the Zoning Ordinance and the rules of the Board, the Board shall determine the reasonableness and propriety in particular cases of any one of the following special exceptions to the Zoning District regulations of the Zoning Ordinance. The proposed use shall also conform with all the provisions for the use in the particular Zoning District in which it is to be located, and all other pertinent provisions of the Zoning Ordinance, except as wherein prescribed in this Article. The Board shall consider, explain and record its finding and determination in conformity with the spirit of the Zoning Ordinance and may authorize the issuance of a Permit for the following:

1406.1: Other Principal Uses Not Explicitly Permitted Within a Zoning District

A use which is not explicitly listed as a permitted principal use within the regulations of a zoning district may be permitted provided that the use is similar to and not more objectionable to the general welfare than the permitted uses listed in that zoning district. Such uses shall be permitted only upon the judgment and approval of the Zoning Hearing Board which may also require compliance with such conditions as may be necessary to protect and promote the general welfare of the Township.

ARTICLE XV

AMENDMENT, SUPPLEMENT OR CHANGE

Section 1500: Procedure for Amendments

The Zoning Ordinance or parts thereof may be amended or repealed by the Township Board of Supervisors in accordance with provisions of the Pennsylvania Municipalities Planning Code (Act 247 of 1968, as amended) and with the following procedures:

- (1) Any amendment, or repeal may be initiated by:
 - (a) The Township Planning Commission.
 - (b) The Township Board of Supervisors.
 - (c) A notarized petition to the Township Board of Supervisors by the owner of the property involved or by a party having interest therein.
- (2) Proposed amendments shall be submitted to the Township Board of Supervisors at a regular or special meeting of the Township Board of Supervisors.
- (3) Before voting on the enactment of an amendment, the Township Board of Supervisors shall hold a public hearing thereon in accordance with the requirements of the Pennsylvania Municipalities Planning Code (Act 247 of 1968, as amended). As required by the Planning Code, the public shall be notified of the amendment and hearing, such notice shall be posted on any affected tract of land, and the amendment shall be referred to the Township Planning Commission and Mercer County Regional Planning Commission for review.
- (4) An application for amendment shall be submitted in a form prescribed by the Township Board of Supervisors containing the following minimum information:
 - (a) Name, address, and phone number of the applicant or his agent.
 - (b) The applicant's legal interest in the affected property(ies).
 - (c) A map showing the location of the affected property(ies), the present and proposed zoning classification and boundaries, and a perimeter sketch of the affected property(ies) showing dimensions and size.
- (5) Any application for amendment to the Zoning Ordinance shall be accompanied by a reasonable fee in such amount as set by resolution of the Township Board of Supervisors.

ARTICLE XVI

APPEALS

Section 1600: Zoning Appeals

The review or appeal of any provision of this Ordinance or decision, determination, order or finding of the Township Board of Supervisors or its agencies or officers shall follow the procedures set forth in Article X-A "Appeals to Court" of the Pennsylvania Municipalities Planning Code (Act 247 of 1968, as amended).

ARTICLE XVII

VALIDITY

Section 1700: Severance

If any article, section, subsection, provision, regulation, limitation, restriction, sentence, clause, phrase, or word in the Zoning Ordinance or the Zoning District boundaries as shown on the Zoning Map, shall be for any reason, declared to be illegal, unconstitutional or invalid by any court of competent jurisdiction, such decision shall not affect or impair the validity of the Zoning Ordinance as a whole or any article, section, subsection, provision, regulation, limitation, restriction, sentence, clause, phrase, word or remaining portion of the Zoning Ordinance.

The Township Board of Supervisors hereby declares that it would have adopted the Zoning Ordinance and each article, section, subsection, provision, regulation, limitation, restriction, sentence, clause, phrase and word thereof, and each Zoning District boundary of the Zoning Map irrespective of the fact that any one or more of the sections, subsections, provisions, regulations, limitations, restrictions, sentences, clauses, phrases, words or boundaries may be declared illegal, unconstitutional or invalid.

ARTICLE XVIII

REPEAL

Section 1800: Repeal of 1983 Zoning Ordinance

The enactment of this Zoning Ordinance contained herein shall hereby repeal in its entirety the New Vernon Township Zoning Ordinance as adopted July 7, 1983 and subsequently amended. No article, section, subsection, provision, regulation, limitation, restriction, sentence, clause, phrase, or word in the 1983 Zoning Ordinance shall be valid or applicable as law in the Township.

ARTICLE XIX

DEFINITIONS

Section 1900: General Interpretation

For the purposes of the Zoning Ordinance, certain terms, phrases and words shall have the meaning given herein. Words used in the present tense include the future; the singular includes the plural; the word "used" shall be construed as though followed by the words "or intended or designed to be used"; the words "building", "structure", and "land" or "premises" shall be construed as though followed by the words "or any portion thereof"; and the word "structure" includes the word "building". The word "shall" is always mandatory and not merely directory.

Section 1901: Definition of Terms

Abutting. Having property or district lines in common; e.g., two lots are abutting if they share a common property line.

Access. A way of approaching or entering a property.

Accessory Apartment. A separate, complete housekeeping unit which is contained within the structure of a single-family dwelling but can be isolated from it, or which is contained within an existing accessory building.

Alley. The space or area between the rear or side lot lines of lots which has a minor right-of-way width of twenty (20) feet or less which is dedicated for the public use of vehicles and pedestrians and which affords secondary access to an abutting lot.

Alteration. As applied to a building or structure, is a change or rearrangement in the structural parts, or in the exit facilities, or an enlargement, whether by extending on a side or by increasing in height, or moving from one location or position to another.

Alteration, Structural. A change, other than incidental repairs, which would prolong the life of the supporting members of a building, such as bearing wall, columns, beams and girders.

Awning. An awning shall include any structure made of cloth or metal with a metal frame attached to a building and projecting over a yard or thoroughfare, when the same is so erected as to permit its being raised to a position flat against the building when not in use or not permanently attached to and an integral part of a porch, carport, or similar attached accessory structure.

Basement. Portion of a building partly underground, having one-half (1/2) or more than one-half (1/2) of its floor-to-ceiling height below the average grade of adjoining ground.

Block. The length of a street between two (2) street intersections; or a piece of land bounded on all sides by streets or other transportation routes such as railroad lines, or by physical barriers such as waterbodies or public open space, and not traversed by a through street.

Boarding House. A building or portion thereof, arranged or used for sheltering and feeding for compensation more than five (5) and not more than twenty (20) individuals who are not members of the proprietor's family.

Boarding Unit. Living quarters which, unlike a Dwelling Unit, do not contain complete housekeeping facilities and are typically used for sheltering and feeding paying occupants who are not members of the proprietor's family.

Building. An enclosed structure built, erected, and framed of component structural parts, designed for the housing, shelter, enclosure, and protection of persons, animals, or property of any kind, including mobile homes.

Building, Accessory. A detached, subordinate building, the use of which is customarily incidental and subordinate to that of the principal building, and which is located on the same lot as that occupied by the principal building.

Building, Attached. A building where both side walls of all except the end structures are party walls.

Building, Detached. A building which has no party wall.

Building, Principal. A building in which is conducted the principal use of the lot on which it is situated.

Building Setback. The distance on a lot from the centerline of any road within which no building or structure shall be placed, unless otherwise indicated in this Ordinance.

Building Setback Line. A line on a lot which marks the building setback.

Campground. A facility containing sites or spaces for the temporary and recreational occupancy of persons in tents. Such facility may also contain recreation and other support facilities subordinate to and serving only the camping occupants.

Carport. A roofed structure having two or more open sides and extending from the side or rear wall of a principal or accessory building, used primarily as a shelter for automotive vehicles or recreation equipment. The open sides may be screened or enclosed, but at least

fifty (50) percent of such wall area must remain open. In addition, the carport shall not extend into any required yard.

Cartway. That area of a street within which vehicles are permitted including travel lanes and parking areas but not including shoulders, curbs, sidewalks or swales.

Centerline. The line located at the middle of the travelled surface of a road, equi-distant from both edges of the road surface.

Certificate of Use and Occupancy. A statement, based on an inspection and signed by the Zoning Officer, indicating that a building, structure, and/or land conforms with the provisions prescribed in the Zoning Ordinance and may lawfully be occupied or used for a specified use or uses.

Child Care Center. Provides out-of-home care for seven (7) or more children for part of a 24-hour day to children 15 years and younger, including care provided to a child at the parents work site when the parent is not present in the child care space, and including care provided in public or private profit or non-profit facilities. Also, care provided before or after the hours of instruction at non-public and private nursery schools and kindergartens. Definition does not apply to care provided: by a relative; in places of worship during religious services; in a facility where the parent is present at all times child care is provided; during hours of instruction in non-public or private nursery school or kindergarten.

Church. A building for public religious worship.

Clinic. Any professional medical building or establishment where people are examined or treated by doctors or dentists, but are not hospitalized overnight.

Club, Lodges and Fraternal Organizations. An establishment operated for social, recreational, or educational purposes, and open only to members and their guests, but not the general public.

Conditional Use. A permission or approval granted by the Township Board of Supervisors to use land in a district for a purpose other than that permitted outright in that district. Conditional uses may be approved or denied by the Board of Supervisors only in accordance with the provisions of the PA Municipalities Planning Code (Act 247 of 1968, as amended).

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

Convalescent Home. A dwelling converted into quarters or new building constructed with quarters for the full-time convalescent or chronic care of persons who, by reason of advanced age, chronic illness, or infirmity, are unable to care for themselves.

Court. A portion of a lot unoccupied above grade but partially or wholly surrounded by building walls.

Covenant. A private legal restriction on the use of land, contained in the deed to the property or otherwise formally recorded.

Curb Level. The elevation of the street grade as established in accordance with the law or when a curb level has not been established, the grade at the center of the street.

Curb Line. The line establishing the width of a cartway in a right-of-way. Where curbs do not exist the edge of pavement shall be the curb line.

Dedication. The transfer of property from private to public ownership.

Deed Restriction. See Covenant.

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

District. A district or a zone shall be any portion of the territory of the Township of New Vernon within which certain uniform regulations and requirements or various combinations thereof apply under the provisions of this Ordinance.

Driveway. An open space located on a private lot built for access to a private garage or to any structure located on the lot.

Dwelling. A building arranged and used for residential occupancy containing a dwelling unit or units, but excluding a boarding house, hospital, institutional home, hotel, motel, and other similar types of uses.

Dwelling, Multiple-Family. A building have two (2) or more dwelling units and designed to be used or occupied as a residence by two (2) or more families living independently of each other and each with its own exterior entrance door or own entrance door from an interior hallway.

Dwelling, Single-Family. A detached, permanent building designed for and used exclusively for occupancy by one family, excluding mobile homes.

Dwelling, Two-Family. A building having two (2) dwelling units, each with its own entrance door and designed for and used for occupancy by two families. The Dwelling Units may be

either semi-detached with one (1) family living on either side of a common party wall, or stacked with one (1) family living over the other.

Dwelling Unit. A building or portion thereof providing complete house keeping facilities for one family. The term shall include all structures designed for and/or used for living purposes, including mobile homes, prefabricated dwellings, and similar portable structures.

Easement. A right given by the owner of land to another party for specific limited use of that land.

Enlargement. A construction activity which increases the size of a building or other structure.

Essential Services. The erection, construction, alteration or maintenance by public utilities or municipal departments or municipal authorities of underground or overhead gas, electrical, steam or water transmission or distribution systems, collection, communication, supply or disposal systems, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants and other similar equipment and accessories in connection therewith reasonably necessary for the furnishing of adequate service by such public utilities or municipal or other governmental agencies or for the public health or safety or general welfare.

Family. One or more persons living together in a single housekeeping unit as a non-profit household, provided that the dwelling unit's size meets the minimum occupancy area requirements as defined by this ordinance.

Farm. A lot, parcel or tract of land used for agricultural purposes on which the principal structure shall be the agricultural building(s).

Flood. A temporary inundation of normally dry land areas.

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

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

Floor Area, Gross. The total area of all floors of a building as measured to the outside surfaces of exterior walls and including halls, stairways, elevator shafts, attached garages, porches and balconies.

Floor Area, Residential. The total area of all floors of a residential building devoted solely to residential use, measured between interior faces of walls, and exclusive of entrance ways, porches, breezeways and roofed terraces, whether enclosed or not, and excluding cellars, basements and garages.

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

Frontage. The frontage, or front of a lot, is the side nearest the street. For the purposes of determining yard and setback requirements on corner lots and through lots, all sides of a lot adjacent to streets shall be considered frontage, and yards and setbacks shall be provided as indicated in this Ordinance.

Garage, Private. A detached accessory building or a portion of a principal building used only for the storage of not more than three (3) private motor vehicles by the families resident upon the premises.

Grade. The mean curb level, or when the curb level has not been established or all the walls of the building are more than fifteen (15) feet from street lot lines, grade means the mean elevation of the ground adjoining the structure on all sides.

Height of Building. The vertical distance from the grade to the highest point on a building.

Height of Wall. The vertical distance from the foundation wall or other immediate support of such wall to the top of the wall.

Home Occupation. Any accessory use to a dwelling unit located in the residential zoning district designed for financial gain as a business activity involving the sale of goods and services that is conducted entirely from within the dwelling and/or accessory structure located within 500 linear feet of the dwelling unit occupied by the bonafide residents conducting the home occupation.

Hospital. A private or public institution where the ill or injured may receive medical, surgical, or psychiatric treatment, nursing, food, lodging, etc., during illness or injury.

Hospital, Animal. A structure designed or converted for the care of and/or treatment of sick or injured domestic animals.

Hotel. A building designed for occupancy as the temporary residence of individuals or transients who are lodged with or without meals, and in which no provision is made for cooking in any individual room or suite.

Housing Unit. Same as Dwelling Unit.

Junk. Any worn, cast off, or discarded articles or material which is ready for destruction or which has been collected or stored for sale, resale, salvage or conversion to some other use. Any such article or material which is stored on a farm for exclusive use of the owner or occupant of the farm or any article or material which, unaltered, not needed to be disassembled or unfastened from, or unchanged and without further reconditioning can be used for its original purpose as readily as when new shall not be considered junk.

Junk Yard. The use of more than two hundred (200) square feet of the area of any lot, outside a building, or the use of any portion of that half of any lot that joins any street, for the storage, keeping or abandonment of junk. A "junk yard" shall include an automotive wrecking yard. Three or more junk vehicles stored on any lot outside of a building or not inside a wall or fence shall be considered a junk yard.

Land. The solid portion of the earth's surface which is capable of being used or occupied.

Land, Developed. "Improved land" with buildings.

Land, Improved. "Raw land" which has been provided with basic utilities such as water and sewerage, streets, sidewalks, but not buildings.

Land, Raw. Vacant land unsubdivided and unimproved (without utilities or streets).

Landscaping. Changing, rearranging, or adding to the original vegetation or scenery of a piece of land to produce an aesthetic effect appropriate for the use to which the land is put. It may include reshaping the land by moving the earth, as well as preserving the original vegetation or adding vegetation.

Land Use. A description of how land is occupied or utilized.

Loading Space. An off-street space or berth on same lot with a building, or contiguous to a group of buildings, for the temporary stopping of commercial vehicles while loading or unloading merchandise or materials, and which abuts upon a street, alley or other appropriate means of access to a public right-of-way.

Lodge. (1) A building or group of buildings under single management, containing both rooms and dwelling units available for temporary rental to transient individuals or families; (2) The place where members of a local chapter of an association hold their meetings; and, the local chapter itself.

Lot. The basic development unit - an area with fixed boundaries, used or intended to be used customarily by one building and its accessory building(s) and not divided by any road or alley. The lot shall not include any portion of the street right-of-way.

Lot Area. The computed area of a lot contained within the lot lines and measured at grade on a horizontal plane.

Lot, Corner. A lot abutting upon two or more streets at their intersection or upon two parts of the same street, such streets or parts of the same street forming an interior angle of less than 135 degrees. The point of intersection of the street lot lines is the "corner".

Lot Coverage. The percentage of the lot area occupied or covered by principal and accessory structures.

Lot Depth. The mean horizontal distance between the front lot line and the rear lot line.

Lot, Double Frontage. An interior lot whose front and rear lot lines abut roads, or a corner lot with two opposite lot lines abutting a road.

Lot Frontage. See "Frontage".

Lot, Interior. A lot whose side lot lines do not abut a road.

Lot Lines. The property lines bounding the lot.

Lot Line, Front. The line separating the lot from a road right-of-way.

Lot Line, Rear. The lot line opposite and most distant from the front lot line.

Lot Line, Side. Any lot line other than a front or rear lot line; a side lot line separating a lot from a street is called a side street lot line.

Lot Line, Alley. A lot line separating the lot from an alley.

Lot, Non-Conforming. A lot lawfully existing at the effective date of the Zoning Ordinance or by subsequent amendment thereto which does not completely conform with the area regulations and other provisions prescribed for the Zoning District in which it is located.

Lot of Record. A lot which is part of a recorded subdivision or a parcel of land which has been recorded or registered in the Office of the Recorder of Deeds of Mercer County, Pennsylvania.

Lot Width. The mean horizontal distance between the side lot lines of a lot measured at right angles to the depth.

Manufactured Home (as pertains only to the provisions of Article VII). A structure transportable in one or more sections which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term includes park trailers, travel trailers, recreational vehicles, and other similar vehicles placed on a site for more than 180 consecutive days.

Manufactured Home Park (as pertains only to the provisions of Article VII). A parcel of land which has been planned and improved for the placement of two or more manufactured homes.

Marquee. Any permanent roof-like structure projecting beyond a building or extending along and projecting beyond the wall of the building, generally designed and constructed to provide protection from the weather.

Mobile Home. A transportable, self-contained, dwelling designed for occupancy by one family and designed to be transported on its own wheels or on a flatbed or other trailer or detachable wheels; and which may be temporarily or permanently affixed to land; used for nontransient residential purposes; constructed with the same, or similar, electrical, plumbing and sanitary facilities as immobile housing; and upon arrival at the site where the mobile home is to be situated for occupancy as a residence, it is complete and ready for occupancy except for minor and incidental unpacking operations, location on foundation supports, connections to utilities and the like.

Prefabricated units designed to be assembled or joined together upon arrival at the site and requiring extensive finishing operations prior to occupancy (excluding location on foundation and connection to utilities) shall not be considered as a mobile home.

Mobile Home Lot. A parcel of land within a mobile home park for the placement of a single mobile home and the exclusive use of its occupants.

Mobile Home Park. A parcel of land under single ownership which has been specifically planned and improved for the long-term placement of two or more mobile homes for non-transient use in a safe and desirable manner.

Motel. Any building or group of attached, semi-attached, or detached buildings (not including a trailer) located on a single lot containing individual sleeping or housekeeping units designed for use by transients.

Nursery, also Greenhouse. Land or greenhouses used to raise flowers, shrubs, or plants for sale.

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

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

Open Space. An area of land unoccupied by a building and/or other structure which is maintained to permit human use, occupancy, recreation, and enjoyment.

Owner. The duly authorized agent, attorney, purchaser, devisee, fiduciary or any person having vested or contingent interest in the lot, building, or structure in question.

Parking Area. An open space on a lot used as an accessory use for the parking of automotive vehicles.

Parking Space. A space, whether outside or inside a structure, to be used exclusively as a parking stall for one (1) motor vehicle.

Permit, Zoning. A license issued by the Zoning Officer which permits the applicant to proceed with the work specified in the permit application as approved by the Zoning Officer.

Person - An individual, association, co-partner or corporation.

Planning Code. The Pennsylvania Municipalities Planning Code, Act 247 of 1968, as amended by Act 170 of 1988, as further amended by Act 209 of 1990, and Act 131 of 1992, and including any further amendments.

Plat. A map, plan or chart of a section or subdivision of the Township indicating the location and boundaries of individual lots.

Plot. A parcel of land consisting of one or more lots or portions thereof which is described by reference to a recorded plat or by metes and bounds.

Porch. A roofed over structure projecting from the front, side or rear wall of a building. A porch is considered a part of the principal building and is not permitted to extend into any required yards.

Principal Structure. See Structure, Principal.

Projections (into yards). Parts of buildings such as architectural features which are exempted, to a specified amount, from the yard requirements of the Zoning Ordinance.

Recreation.

Recreation, Commercial. Recreational facilities operated as a business and open to the general public for a fee.

Recreation, Non-Commercial. Recreation facilities operated by a non-profit organization and open only to bonafide members of such organization.

Recreation, Public. Recreation facilities operated as a non-profit enterprise by the Township, and any other governmental entity, or any non-profit organization which are open to the general public.

Recreational Vehicle. A vehicular-type unit primarily designed for temporary living quarters for recreational, camping, or travel use, which either has its own motive power or is mounted on or drawn by another vehicle. The basic entities are: travel trailer, camping trailer, truck camper, and motor home. No Recreational Vehicle shall be used as a permanent dwelling or business.

Recreational Vehicle Park. A plot of land upon which two or more recreational vehicle sites are located, established, or maintained for occupancy by recreational vehicles of the general public as temporary living quarters for recreation or vacation purposes.

Road. Any street, highway, or other public roadway which is dedicated to public use by governmental authority.

Screening. A method of visually shielding or obscuring abutting or nearby structures or uses from another by fencing, walls, or densely planted vegetation.

Setback. See "Building Setback".

Sign. See Article XII for specific definitions regarding signs, sign types, and related terms.

Site. A plot of land intended or suitable for development.

Site Plan. A plan, to scale, showing uses and structures proposed for a parcel of land as required by the regulations involved. It includes lot lines, streets, building sites, reserved open space, buildings, major landscape features - both natural and man-made - and the locations of proposed utility lines.

Special Exception. A provision which permits, under specified terms and conditions, particular uses to locate in a zoning district without detriment to the routine and orderly development as provided for that zoning district. The provision is granted by the Zoning Hearing Board.

Story. A part of a building comprised between a floor and a floor or roof next above.

Street. See "Road".

Structure. A combination of materials forming a construction for occupancy and/or use including among other, a building, stadium, gospel tent, circus tent, reviewing stand, platform, staging, observation tower, radio tower, water tank, trestle, pier, wharf, open shed, coal bin, shelter, fence, wall and a sign.

Structure, Accessory. An attached, semi-detached or detached structure whose use is customarily incidental and subordinate to that of the principal structure or use and which is located on the same lot as the principal structure or use.

Structure, Non-Conforming. A legal structure existing at the effective date of the Zoning Ordinance or by a subsequent amendment thereto which does not completely conform to the height regulations, area regulations, and other provisions prescribed for the Zoning District in which it is located.

Structure, Principal. A structure in which is conducted the principal use of the lot on which it is located.

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

Terminal. (1) A place where transfer between modes of transportation takes place; (2) A terminating point where goods are transferred from a truck to a storage area or to other trucks, or picked up by other forms of transportation.

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

Use, Accessory. A use customarily incidental and subordinate to the principal use of a building, structure and/or land or a use not the principal use which is located on the same

zoning lot as the principal building, other structure and/or land, except parking and/or loading facilities as herein provided.

Use, Conditional. A use permitted in a particular zoning district only upon showing that such use, in a specified location, will comply with the expressed standards and criteria contained in the Zoning Ordinance and any additional safeguards deemed necessary by the governing body.

Use, Non-Conforming. A legal use of a building, other structure and/or land existing at the effective date of the Zoning Ordinance or by a subsequent amendment thereto, which does not completely conform with the use regulations and other provisions prescribed for the Zoning District in which it is located.

Use, Principal. The main or primary purpose, for which a building, other structure and/or land is designed, arranged, or intended, or for which it may be used, occupied or maintained under the Zoning Ordinance.

Utility, Private or Public. (1) Any agency which, under public franchise or ownership, or under certificate of convenience and necessity, provides the public with electricity, gas, heat, steam, communication, rail transportation, water, sewage collection, or other similar service; (2) A closely regulated private enterprise with an exclusive franchise for providing a public service.

Variance. Relief granted by the Zoning Hearing Board upon appeal in specific cases, from the terms of the Ordinance as will not be contrary to the public interest, where owing to special conditions a literal enforcement of the provisions of the Zoning Regulations will result in unnecessary hardship, and so that the spirit of the Zoning Regulations will be observed and substantial justice done.

Visual Obstruction. Any fence, wall, tree, hedge, or shrub, or a combination of them which limits visibility.

Written Notice. Shall have been served if delivered in person to the person intended or if delivered or sent by certified mail to the last known address of the person intended.

Yard. An unoccupied space, other than a court, on the same lot with a building, unobstructed artificially from the ground to the sky, except as otherwise provided herein.

Yard, Minimum Dimension. The minimum, permitted horizontal distance between a lot line and the nearest point of a main wall of a principal building or structure exclusive of permissible yard encroachments and occupancy and street projections as provided by this Ordinance. The measurement of the minimum dimension shall be made at grade and perpendicular to the lot line and building or structure.

Yard, Rear. A yard across the full width of the lot, extending from any point of a wall of a building or structure to the rear lot line of the lot.

Yard, Side. A yard extending from any point of a wall of a building or structure to the adjacent side lot line of the lot, extending from the front yard to the rear yard.

EFFECTIVE DATE

The Zoning Ordinance shall take effect ten (10) days after the date of adoption by the Board of Supervisors of New Vernon Township, Mercer County, Pennsylvania.

We hereby certify that the New Vernon Township Zoning Ordinance was adopted by the Board of Supervisors of New Vernon Township, Mercer County, Pennsylvania this 8th day of December, A.D., 1994.

Albert W. Law
CHAIRMAN - BOARD OF SUPERVISORS

JO R Math
MEMBER - BOARD OF SUPERVISORS

Marshall Clark
MEMBER - BOARD OF SUPERVISORS

ATTEST:

Loris A. Law
TOWNSHIP SECRETARY

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ARTICLE XX

EFFECTIVE DATE

Section 2000: Effective Date

The Zoning Ordinance shall take effect ten (10) days after the date of adoption by the Board of Supervisors of New Vernon Township, Mercer County, Pennsylvania.

We hereby certify that the New Vernon Township Zoning Ordinance was adopted by the Board of Supervisors of New Vernon Township, Mercer County, Pennsylvania this _____ day of _____, A.D., _____.

**Township of New Vernon
MERCER COUNTY, PENNSYLVANIA**

CHAIRMAN - BOARD OF SUPERVISORS

MEMBER - BOARD OF SUPERVISORS

MEMBER - BOARD OF SUPERVISORS

(SEAL)

ATTEST:

TOWNSHIP SECRETARY

BOROUGH SECRETARY

ARTICLE XXI

CERTIFICATION

Section 2100: Certification

I do hereby certify that the foregoing is a true copy of Ordinance Number 1994-1, adopted by the Board of Supervisors of New Vernon Township, Mercer County, Pennsylvania on December 8, A.D., 1994.

Lorrie A. Law
TOWNSHIP SECRETARY

APPROVED -

DATE 2-18-92

MERCER COUNTY REGIONAL PLANNING COMMISSION

Margaret B. Walker
CHAIRMAN

SECRETARY

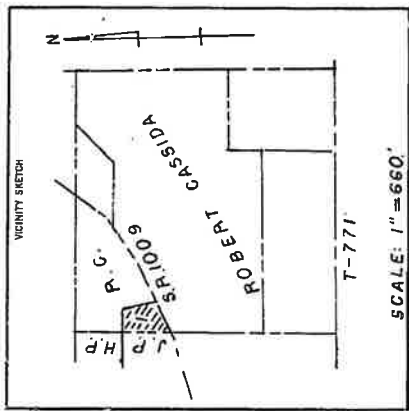
STATE OF PENNSYLVANIA
COUNTY OF MERCER

BEFORE ME THE SUBSCRIBER A Notary Public in and for the
SAID COUNTY AND STATE PERSONALLY APPEARED Robert F. Cassida
AND ACKNOWLEDGE THE BELOW. WITNESS MY HAND AND SEAL
THIS 5th DAY OF February 19 92. MY COMMISSION
EXPIRES THE 12th DAY OF August 19 95.

SIGNATURE Robert F. Cassida

I, THE UNDERSIGNED HEREBY DECLARE THAT I AM THE OWNER OF
THE LAND SHOWN HEREON AND WISH IT TO BE RECORDED AS SUCH.

I HEREBY CERTIFY THAT THE TRACT SHOWN HEREON IS A TRUE AND
ACCURATE SURVEY, July 8, 1981 PL 240



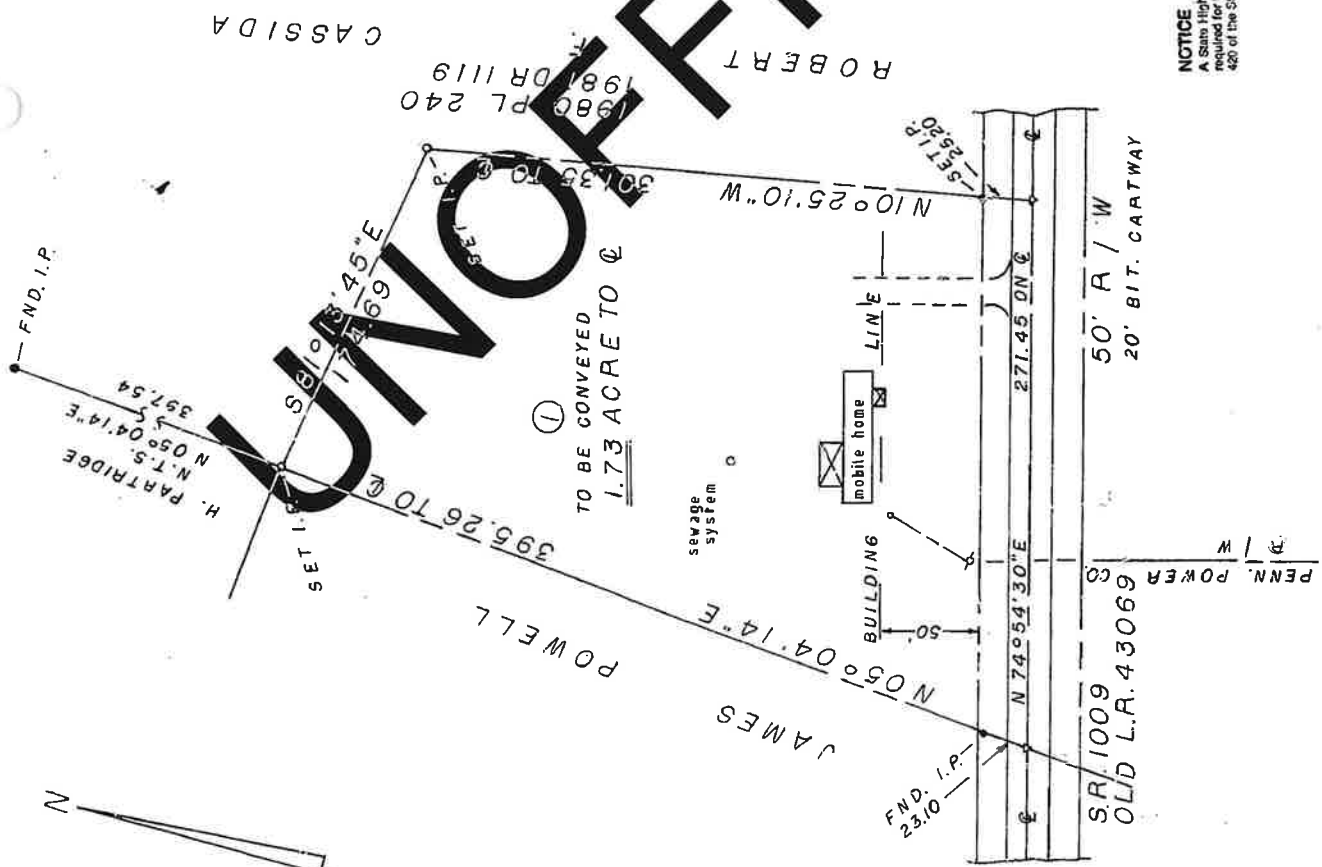
PLAN IS NULL & VOID UNLESS
RECORDED BY March 1992
NO DEEDS MAY BE TRANSFERRED
UNTIL PLAN IS RECORDED.

TITLE - FINAL ROBERT F. CASSIDA SUBDIVISION LOT NO. 1	
INDICATE WHETHER PRELIMINARY OR FINAL	
MUNICIPALITY - NEW VERNON TWP.	
COUNTY - MERCER	STATE - PENNA.
SCALE - 1" = 40'	DATE - 2-3-92
JERRY THURTELL P.O. BOX 605 STONEBORO, PA. 16153	
SEAL	1 book 19 page 45

1" = 40' 20' 40' 80'
SCALE IN FEET

NOTICE
A State Highway Occupancy Permit is
required for this lot pursuant to Section
420 of the State Highway Act.

92 PL 2196-42



ORDINANCE NUMBER 1 OF 2002

OF NEW VERNON TOWNSHIP, MERCER COUNTY, PENNSYLVANIA

**AN ORDINANCE REGULATING THE SITING OF WIRELESS
TELECOMMUNICATIONS FACILITIES****Section 1. Purpose and Legislative Intent.**

The Telecommunications Act of 1996 affirmed the Township of New Vernon authority concerning the placement, construction and modification of Wireless Telecommunications Facilities. The Township of New Vernon finds that Wireless Telecommunications Facilities may pose significant concerns to the health, safety, public welfare, character and environment of the Township and its inhabitants. The Township also recognizes that facilitating the development of wireless service technology can be an economic development asset to the Township and of significant benefit to the Township and its residents. In order to insure that the placement, construction or modification of Wireless Telecommunications Facilities is consistent with the land use policies, the Township is adopting a single, comprehensive, Wireless Telecommunications Facilities application and permit process. The intent of this Ordinance is to minimize the negative impact of Wireless Telecommunications Facilities, establish a fair and efficient process for review and approval of applications, assure an integrated, comprehensive review of environmental impacts of such facilities, and protect the health, safety and welfare of the Township of New Vernon.

Section 2. Title.

This Ordinance shall be known and cited as the Wireless Telecommunications Facilities Siting Ordinance for the Township of New Vernon.

Section 3. Severability.

- A) If any word, phrase, sentence, part, section, subsection, or other portion of this Ordinance or any application thereof to any person or circumstance is declared void, unconstitutional, or invalid for any reason, then such word, phrase, sentence, part, section, subsection, or other portion, or the proscribed Application thereof, shall be severable, and the remaining provisions of this Ordinance, and all applications thereof, not having been declared void, unconstitutional, or invalid, shall remain in full force and effect.
- B) Any Wireless Facilities Permit issued under this Ordinance shall be comprehensive and not severable. If part of a permit is deemed or ruled to be invalid or unenforceable in any material respect, by a competent authority, or is overturned by a competent authority, the permit shall be void in total, upon determination by the Township.

Section 4. Definitions.

For purposes of this Ordinance, and where not inconsistent with the context of a particular section, the defined terms, phrases, words, abbreviations, and their derivations shall have the meaning given in this section. When not inconsistent with the context, words in the present tense include the future

tense, words used in the plural number include words in the singular number and words in the singular number include the plural number. The word "shall" is always mandatory, and not merely directory.

1. **"Accessory Facility or Structure"** means an accessory facility or structure serving or being used in conjunction with Wireless Telecommunications Facilities, and located on the same property or lot as the Wireless Telecommunications Facilities, including but not limited to, utility or transmission equipment storage sheds or cabinets.
2. **"Applicant"** means any Wireless service provider submitting an Application for a Wireless Facilities Permit for Wireless Telecommunications Facilities.
3. **"Application"** means all necessary and appropriate documentation that an Applicant submits in order to receive a Wireless Facilities Permit for Wireless Telecommunications Facilities.
4. **"Antenna"** means a system of electrical conductors that transmit or receive electromagnetic waves or radio frequency or other wireless signals. Such shall include, but not be limited to radio, television, cellular, paging, personal Telecommunications services (PCS), microwave Telecommunications and services not licensed by the FCC, but not expressly exempt from the Township's siting, building and permitting authority.
5. **"Board"** means the Board of Supervisors of New Vernon Township.
6. **"Co-location"** means the use of a Tower or structure to support Antennae for the provision of wireless services without increasing the height of the Tower or structure.
7. **"Commercial Impracticability"** or **"Commercially Impracticable"** means the inability to perform an act on terms that are reasonable in commerce, the cause or occurrence of which could not have been reasonably anticipated or foreseen and that jeopardizes the financial efficacy of the project. The inability to achieve a satisfactory financial return on investment or profit, standing alone, shall not deem a situation to be "commercially impracticable" and shall not render an act or the terms of an agreement "commercially impracticable".
8. **"Completed Application"** means an Application that contains all information and/or data necessary to enable an informed decision to be made with respect to an Application.
9. **"FAA"** means the Federal Aviation Administration, or its duly designated and authorized successor agency.
11. **"FCC"** means the Federal Communications Commission, or its duly designated and authorized successor agency.
12. **"Height"** means, when referring to a Tower or structure, the distance measured from the pre-existing grade level to the highest point on the Tower or structure, even if said highest point is an Antenna or lightning protection device.
13. **"Modification"** means the addition, removal or change of any of the physical and visually discernable components or aspects of a wireless facility, such as antennas, cabling, radios, equipment shelters, landscaping, fencing, utility feeds, changing the color or materials of any visually discernable components, vehicular access, parking and/or an upgrade or changeout of equipment for better or more modern equipment. Adding a new wireless carrier or service provider to a Telecommunications Tower or Telecommunications Site is a modification. A

Modification shall not include the replacement of any components of a wireless facility where the replacement is identical to the component being replaced or for any matters that involve the normal repair and maintenance of a wireless facility without adding, removing or changing anything.

14. **"NIER"** means Non-Ionizing Electromagnetic Radiation
15. **"Person"** means any individual, corporation, estate, trust, partnership, joint stock company, association of two (2) or more persons having a joint common interest, or any other entity.
16. **"Personal Wireless Facility"** See definition for 'Wireless Telecommunications Facilities'.
17. **"Personal Wireless Services"** or **"PWS"** or **"Personal Telecommunications Service"** or **"PCS"** shall have the same meaning as defined and used in the 1996 Telecommunications Act.
18. **"State"** means the Commonwealth of Pennsylvania.
19. **"Stealth" or "Stealth Technology"** means a design intended to minimize adverse aesthetic and visual impacts on the land, property, buildings, and other facilities adjacent to, surrounding, and in generally the same area as the requested location of such Wireless Telecommunications Facilities, which shall mean using the least visually and physically intrusive facility that is not technologically or commercially impracticable under the facts and circumstances,.
20. **"Telecommunications"** means the transmission and/or reception of audio, video, data, and other information by wire, radio frequency, light, and other electronic or electromagnetic systems.
- 21 **"Telecommunication Site"** See definition for Wireless Telecommunications Facilities.
22. **"Telecommunications Structure"** means a structure used in the provision of services described in the definition of 'Wireless Telecommunications Facilities'.
23. **"Temporary"** means, temporary in relation to all aspects and components of this Ordinance, something intended to, or that does, exist for fewer than ninety (90) days.
24. **"Township"** means Township of New Vernon.
25. **"Wireless Telecommunications Facilities"** means and includes a **"Telecommunications Tower"** and **"Tower"** and **"Telecommunications Site"** and **"Personal Wireless Facility"** means a structure, facility or location designed, or intended to be used as, or used to support, Antennas or other transmitting or receiving devices. This includes without limit, Towers of all types and kinds and structures that employ camouflage technology, including, but not limited to structures such as a multi-story building, church steeple, silo, water tower, sign or other structures that can be used to mitigate the visual impact of an Antenna or the functional equivalent of such, including all related facilities such as cabling, equipment shelters and other structures associated with the site. It is a structure and facility intended for transmitting and/or receiving radio, television, cellular, paging, 911, personal Telecommunications services, commercial satellite services, microwave services and services whether or not licensed by the FCC, but not expressly exempt from the Township siting, building and permitting authority, excluding those used exclusively for the Township's fire, police or exclusively for private, non-commercial radio and television reception and private citizen's bands, amateur radio and other

similar non-commercial Telecommunications where the height of the facility is below the height limits set forth in this ordinance.

26. **“Wireless Facilities Permit”** means the official document or permit by which an Applicant is allowed to construct and use Wireless Telecommunications Facilities as granted or issued by the Township.

Section 5. Overall Policy and Desired Goals for Wireless Facilities Permits for Wireless Telecommunications Facilities.

In order to ensure that the placement, construction, and modification of Wireless Telecommunications Facilities protects the Township’s health, safety, public welfare, environmental features, the nature and character of the community and neighborhood and other aspects of the quality of life specifically listed elsewhere in this Ordinance, the Township hereby adopts an overall policy with respect to a Wireless Facilities Permit for Wireless Telecommunications Facilities for the express purpose of achieving the following goals:

- 1) Implementing an Application process for person(s) seeking a Wireless Facilities Permit for Wireless Telecommunications Facilities;
- 2) Establishing a policy for examining an application for and issuing a Wireless Facilities Permit for Wireless Telecommunications Facilities that is both fair and consistent.
- 3) Promoting and encouraging, wherever possible, the sharing and/or co-location of Wireless Telecommunications Facilities among service providers;
- 4) Promoting and encouraging, wherever possible, the placement, height and quantity of Wireless Telecommunications Facilities in such a manner, including but not limited to the use of stealth technology, to minimize adverse aesthetic and visual impacts on the land, property, buildings, and other facilities adjacent to, surrounding, and in generally the same area as the requested location of such Wireless Telecommunications Facilities, which shall mean using the least visually and physically intrusive facility that is not technologically or commercially impracticable under the facts and circumstances,.

Section 6. Wireless Facilities Permit Application and Other Requirements.

- A) All Applicants for a Wireless Facilities Permit for Wireless Telecommunications Facilities or any modification of such facility shall comply with the requirements set forth in this section. The Board is the officially designated agency or body of the Township to whom applications for a Wireless Facilities Permit for Wireless Telecommunications Facilities must be made, and that is authorized to review, analyze, evaluate and make decisions with respect to granting or not granting, recertifying or not recertifying, or revoking Wireless Facilities Permits for Wireless Telecommunications Facilities. The Board of Supervisors may at its discretion delegate or designate other official agencies of the Township, or others, to accept, review, analyze, evaluate and make recommendations to the Board with respect to the granting or not granting, recertifying or not recertifying or revoking Wireless Facilities Permits for Wireless Telecommunications Facilities.
- B) An Application for a Wireless Facilities Permit for Wireless Telecommunications Facilities shall be signed on behalf of the Applicant by the person preparing the same and with knowledge of the

contents and representations made therein and attesting to the truth and completeness of the information. The landowner, if different than the Applicant, shall also sign the Application. At the discretion of the Township, any false or misleading statement in the Application may subject the Applicant to denial of the Application without further consideration or opportunity for correction.

- C) Applications not meeting the requirements stated herein or which are otherwise incomplete, may be rejected by the Township.
- D) The Applicant shall include a statement in writing:
 - 1) That the applicant's proposed Wireless Telecommunications Facilities shall be maintained in a safe manner, and in compliance with all conditions of the Wireless Facilities Permit, without exception, unless specifically granted relief by the Township in writing, as well as all applicable and permissible local codes, ordinances, and regulations, including any and all applicable Township, State and Federal Laws, rules, and regulations;
 - 2) That the construction of the Wireless Telecommunications Facilities is legally permissible, including, but not limited to the fact that the Applicant is authorized to do business in the State.
- E) No Wireless Telecommunications Facilities shall be installed or constructed until the Application is reviewed and approved by the Township, and the Wireless Facilities Permit has been issued.
- F) No Tower owner or manager shall be permitted to submit an application for a Wireless Facilities Permit for a Tower if the Tower owner does not have a signed agreement committing a commercial service provider to occupy space on the Tower.
- G) All applications for the construction or installation of new Wireless Telecommunications Facilities shall contain the information hereinafter set forth. The application shall be signed by an authorized individual on behalf of the Applicant. Where a certification is called for, such certification shall bear the signature and seal of a Professional Engineer licensed in the State. The Application shall include the following information:
 - 1) The Name, address and phone number of the person preparing the report;
 - 2) The Name, address, and phone number of the property owner, operator, and Applicant, and to include the legal form of the Applicant;
 - 3) The Postal address and tax map parcel number of the property;
 - 4) The Zoning District or designation in which the property is situated;
 - 5) Size of the property stated both in square feet and lot line dimensions, and a diagram showing the location of all lot lines;
 - 6) The Location of nearest residential structure;
 - 7) The Location, size and height of all structures on the property which is the subject of the Application;
 - 8) The Location, size and height of all proposed and existing antennae and all appurtenant structures;
 - 9) The Type, locations and dimensions of all proposed and existing landscaping, and fencing;
 - 10) The number, type and design of the Tower(s) and Antenna(s) proposed and the basis for the calculations of the Tower's capacity to accommodate multiple users;

- 11) The make, model and manufacturer of the Tower and Antenna(s);
 - 12) A description of the proposed Tower and Antenna(s) and all related fixtures, structures, appurtenances and apparatus, including height above pre-existing grade, materials, color and lighting;
 - 13) The frequency, modulation and class of service of radio or other transmitting equipment;
 - 14) The actual intended transmission and the maximum effective radiated power of the Antenna(s);
 - 15) Direction of maximum lobes and associated radiation of the Antenna(s);
 - 16) Certification that the NIER levels at the proposed site are within the threshold levels adopted by the FCC;
 - 17) Certification that the proposed Antenna(s) will not cause interference with other telecommunications devices;
 - 18) A copy of the FCC license applicable for the intended use of the Wireless Telecommunications Facilities;
 - 19) Certification that a topographic and geomorphologic study and analysis has been conducted, and that taking into account the subsurface and substrata, and the proposed drainage plan, that the site is adequate to assure the stability of the proposed Wireless Telecommunications Facilities on the proposed site.
- H) In the case of a new Tower, the Applicant shall be required to submit a written report demonstrating its meaningful efforts to secure shared use of existing Tower(s) or the use of alternative buildings or other structures within the Township. Copies of written requests and responses for shared use shall be provided to the Township in the Application, along with any letters of rejection stating the reason for rejection.
- I) The Applicant shall certify that the Telecommunication Facility, foundation and attachments are designed and will be constructed to meet all Township, State and Federal structural requirements for loads, including wind and ice loads.
- J) The Applicant shall certify that the Wireless Telecommunications Facilities will be effectively grounded and bonded so as to protect persons and property and installed with appropriate surge protectors.
- K) An Applicant may be required to submit an environmental assessment analysis and a visual addendum. Based on the results of the Analysis, including the Visual addendum, the Township may require submission of a more detailed visual analysis. The scope of the required environmental and visual assessment will be reviewed at the pre-application meeting.
- L) The Applicant shall furnish a Visual Impact Assessment, which shall include:
- 1) A "Zone of Visibility Map" which shall be provided in order to determine locations from which the Tower may be seen.
 - 2) Pictorial representations of "before and after" views from key viewpoints both inside and outside of the Township as may be appropriate, including but not limited to state highways and other major roads; state and local parks; other public lands; historic districts; preserves and historic sites normally open to the public; and from any other location where the site is visible to a large number of visitors, travelers or residents. Guidance will be provided, concerning the appropriate key sites at a pre-application meeting.

- 3) An assessment of the visual impact of the Tower base, guy wires and accessory buildings from abutting and adjacent properties and streets as relates to the need or appropriateness of screening.
- M) The Applicant shall demonstrate and provide in writing and/or by drawing how it shall effectively screen from view the base and all related facilities and structures of the proposed Wireless Telecommunications Facilities.
- N) Any and all representations made by the Applicant to the Township on the record during the Application process, whether written or verbal, shall be deemed a part of the Application and may be relied upon in good faith by the Township.
- O) All utilities at a Wireless Telecommunications Facilities site shall be installed underground and in compliance with all Laws, ordinances, rules and regulations of the Township, including specifically, but not limited to, the National Electrical Safety Code and the National Electrical Code where appropriate.
- P) All Wireless Telecommunications Facilities shall contain a demonstration that the Facility be sited so as to be the least visually intrusive reasonably possible and thereby have the least adverse visual effect on the environment and its character, on existing vegetation, and on the residences in the area of the Wireless Telecommunications Facility.
- Q) Both the Wireless Telecommunications Facility and any and all accessory or associated facilities shall maximize the use of building materials, colors and textures designed to blend with the structure to which it may be affixed and/or to harmonize with the natural surroundings, this shall include the utilization of stealth or concealment technology as may required by the Township.
- R) At a Telecommunications Site, an access road, turn around space and parking shall be provided to assure adequate emergency and service access. Maximum use of existing roads, whether public or private, shall be made to the extent practicable. Road construction shall at all times minimize ground disturbance and the cutting of vegetation. Road grades shall closely follow natural contours to assure minimal visual disturbance and reduce soil erosion.
- S) A Person who holds a Wireless Facilities Permit for Wireless Telecommunications Facilities shall construct, operate, maintain, repair, provide for removal of, modify or restore the permitted Wireless Telecommunications Facilities in strict compliance with all current applicable technical, safety and safety-related codes adopted by the Township, State, or Federal Government, including but not limited to the most recent editions of the National Electrical Safety Code and the National Electrical Code, as well as accepted and responsible workmanlike industry practices and recommended practices of the National Association of Tower Erectors. The codes referred to are codes that include, but are not limited to, construction, building, electrical, fire, safety, health, and land use codes. In the event of a conflict between or among any of the preceding the more stringent shall apply.
- T) A holder of a Wireless Facilities Permit granted under this Ordinance shall obtain, at its own expense, all permits and licenses required by applicable Law, rule, regulation or code, and must maintain the same, in full force and effect, for as long as required by the Township or other governmental entity or agency having jurisdiction over the applicant.
- U) An Applicant shall submit to the Township the number of completed Applications determined to be needed at the pre-application meeting. Written notification of the Application shall be

provided to the legislative body of all adjacent municipalities and the Mercer County Regional Planning Commission.

- V) The Applicant shall examine the feasibility of designing a proposed Tower to accommodate future demand for at least five (5) additional commercial applications, for example, future co-locations. The Tower shall be structurally designed to accommodate at least five (5) additional Antenna Arrays equal to those of the Applicant, and located as close to the Applicant's Antenna as possible without causing interference. This requirement may be waived, provided that the Applicant, in writing, demonstrates that the provisions of future shared usage of the Tower is not technologically feasible, is Commercially Impracticable or creates an unnecessary and unreasonable burden, based upon:

- 1) The foreseeable number of FCC licenses available for the area;
- 2) The kind of Wireless Telecommunications Facilities site and structure proposed;
- 3) The number of existing and potential licenses without Wireless Telecommunications Facilities spaces/sites;
- 4) Available space on existing and approved Towers.

- W) The owner of the proposed new Tower, and his/her successors in interest, shall negotiate in good faith for the shared use of the proposed Tower by other Wireless service providers in the future, and shall:

1. Respond within 60 days to a request for information from a potential shared-use Applicant;
2. Negotiate in good faith concerning future requests for shared use of the new Tower by other Telecommunications providers;
3. Allow shared use of the new Tower if another Telecommunications provider agrees in writing to pay reasonable charges. The charges may include, but are not limited to, a pro rata share of the cost of site selection, planning, project administration, land costs, site design, construction and maintenance financing, return on equity, less depreciation, and all of the costs of adapting the Tower or equipment to accommodate a shared user without causing electromagnetic interference.

Failure to abide by the conditions outlined above may be grounds for revocation of the Wireless Facilities Permit for the Tower.

- X) There shall be a pre-application meeting. The purpose of the pre-application meeting will be to address issues, which will help to expedite the review and permitting process. A pre-application meeting shall also include a site visit if there has not been a prior site visit for the requested site. Costs of the Township's consultants to prepare for and attend the pre-application meeting will be borne by the applicant.
- Y) The holder of a Wireless Facilities Permit shall notify the Township of any intended modification of a Wireless Telecommunication Facility and shall apply to the Township to modify, relocate or rebuild a Wireless Telecommunications Facility.
- Z) In order to better inform the public, in the case of a new Telecommunication Tower, the applicant shall, prior to the public hearing on the application, hold a "balloon test". The Applicant shall arrange to fly, or raise upon a temporary mast, a minimum of a three- (3) foot in

diameter brightly colored balloon at the maximum height of the proposed new Tower. The dates, (including a second date, in case of poor visibility on the initial date) times and location of this balloon test shall be advertised by the Applicant seven (7) and fourteen (14) days in advance of the first test date in a newspaper with a general circulation in the Township. The Applicant shall inform the Township, in writing, of the dates and times of the test, at least fourteen (14) days in advance. The balloon shall be flown for at least four consecutive hours sometime between 7:00 AM and 4:00 PM on the dates chosen. The primary date shall be on a weekend, but in case of poor weather on the initial date, the secondary date may be on a weekday.

- AA) The applicant will provide a written copy of an analysis, completed by a qualified individual or organization, to determine if the Tower or existing structure intended to support wireless facilities requires lighting under Federal Aviation Administration Regulation Part 77. This requirement shall be for any new tower or for an existing structure or building where the application increases the height of the structure or building. If this analysis determines, that the FAA must be contacted, then all filings with the FAA, all responses from the FAA and any related correspondence shall be provided in a timely manner.

Section 7. Location of Wireless Telecommunications Facilities.

- A) Applicants for Wireless Telecommunications Facilities shall locate, site and erect said Wireless Telecommunications Facilities in accordance with the following priorities, one (1) being the highest priority and three (3) being the lowest priority.
- 1) On existing Towers or other structures without increasing the height of the tower or structure;
 - 2) On Township-owned properties;
 - 3) On other property in the Township.
- B) If the proposed site is not proposed for the highest priority listed above, then a detailed explanation must be provided as to why a site of a higher priority was not selected. The person seeking such an exception must satisfactorily demonstrate the reason or reasons why such a permit should be granted for the proposed site and the hardship that would be incurred by the Applicant if the permit were not granted for the proposed site.
- C) An Applicant may not by-pass sites of higher priority by stating the site proposed is the only site leased or selected. An Application shall address co-location as an option. If such option is not proposed, the applicant must explain to the reasonable satisfaction of the Township why co-location is commercially or otherwise impracticable. Agreements between providers limiting or prohibiting co-location shall not be a valid basis for any claim of commercial impracticability or hardship.
- D) Notwithstanding the above, the Township may approve any site located within an area in the above list of priorities, provided that the Township finds that the proposed site is in the best interest of the health, safety and welfare of the Township and its inhabitants and will not have a deleterious effect on the nature and character of the community and neighborhood.
- E) The Applicant shall submit a written report demonstrating the Applicant's review of the above locations in order of priority, demonstrating the technological reason for the site selection. If appropriate, based on selecting a site of lower priority, a detailed written explanation as to why sites of a higher priority were not selected shall be included with the Application.

F) Notwithstanding that a potential site may be situated in an area of highest priority or highest available priority, the Township may disapprove an Application for any of the following reasons.

- 1) Conflict with safety and safety-related codes and requirements;
- 2) Conflict with the historic nature or character of a neighborhood or historical district;
- 3) The use or construction of Wireless Telecommunications Facilities which is contrary to an already stated purpose of a specific zoning or land use designation;
- 4) The placement and location of Wireless Telecommunications Facilities which would create an unacceptable risk, or the reasonable probability of such, to residents, the public, employees and agents of the Township, or employees of the service provider or other service providers;
- 5) Conflicts with the provisions of this Ordinance.

Section 8. Shared use of Wireless Telecommunications Facilities and other structures.

- A) Locating on existing Towers or others structures without increasing the height shall be preferred by the Township, as opposed to the construction of a new Tower. The Applicant shall submit a comprehensive report inventorying existing Towers and other suitable structures within two (2) miles of the location of any proposed new Tower, unless the Applicant can show that some other distance is more reasonable and demonstrate conclusively why an exiting Tower or other suitable structure can not be used.
- B) An Applicant intending to locate on an existing Tower or other suitable structure shall be required to document the intent of the existing owner to permit its use by the Applicant.
- C) Such shared use shall consist only of the minimum Antenna array technologically required to provide service primarily and essentially within the Township, to the extent practicable, unless good cause is shown.

Section 9. Height of Telecommunications Tower(s).

- A) The Applicant shall submit documentation justifying the total height of any Tower, Facility and/or Antenna and the basis therefore. Such documentation will be analyzed in the context of the justification of the height needed to provide service primarily and essentially within the Township, to the extent practicable, unless good cause is shown.
- B) No Tower constructed after the effective date of this Ordinance, including allowing for all attachments, shall exceed that height which shall permit operation without required artificial lighting of any kind in accordance with municipal, Township, State, and/or any Federal statute, law, local law, Township ordinance, code, rule or regulation.

Section 10. Appearance and Visibility of Wireless Telecommunications Facilities.

- A) Wireless Telecommunications Facilities shall not be artificially lighted or marked, except as required by Law.

- B) Towers shall, as deemed appropriate, be galvanized or painted with a rust-preventive paint of an appropriate color to harmonize with the surroundings and shall be maintained in accordance with the requirements of this Ordinance.
- C) If lighting is required, Applicant shall provide a detailed plan for sufficient lighting of as unobtrusive and inoffensive an effect as is permissible under State and Federal regulations.

Section 11. Security of Wireless Telecommunications Facilities.

All Wireless Telecommunications Facilities and Antennas shall be located, fenced or otherwise secured in a manner that prevents unauthorized access. Specifically:

- 1) All Antennas, Towers and other supporting structures, including guy wires, shall be made inaccessible to individuals and constructed or shielded in such a manner that they cannot be climbed or collided with; and
- 2) Transmitters and Telecommunications control points shall be installed such a manner that they are readily accessible only to persons authorized to operate or service them.

Section 12. Signage.

Wireless Telecommunications Facilities shall contain a sign no larger than four (4) square feet in order to provide adequate notification to persons in the immediate area of the presence of an Antenna that has transmission capabilities and shall contain the name(s) of the owner(s) and operator(s) of the Antenna(s) as well as emergency phone number(s). The sign shall be on the equipment shelter or cabinet of the Applicant and be visible from the access point of the site and must identify the equipment owner of the shelter or cabinet. The sign shall not be lighted, unless lighting is required by applicable law, rule or regulation. No other signage, including advertising, shall be permitted.

Section 13. Lot Size and Setbacks.

All proposed Towers and any other proposed Wireless Telecommunications Facility structures shall be set back from abutting parcels, recorded rights-of-way and road and street lines by the greater of the following distances: A distance equal to the height of the proposed Tower or Wireless Telecommunications Facility structure plus ten percent (10%) of the height of the Tower or structure, or the existing setback requirement of the underlying zoning district, whichever is greater. Any Accessory structure shall be located so as to comply with the applicable minimum setback requirements for the property on which it is situated.

Section 14. Retention of Expert Assistance and Reimbursement by Applicant.

- A) The Township may hire any consultant and/or expert necessary to assist the Township in reviewing and evaluating the Application, including the construction and modification of the site, once permitted, and any requests for recertification.
- B) An Applicant shall deposit with the Township funds sufficient to reimburse the Township for all reasonable costs of consultant and expert evaluation and consultation to the Township in connection with the review of any Application including the construction and modification of the site, once permitted. The initial deposit shall be \$8,500.00. The placement of the \$8,500 with the Township shall precede the pre-application meeting. The Township will maintain a separate escrow account for all such funds. The Township's consultants/experts shall invoice the Township for its services in reviewing the Application, including the construction and modification of the site, once permitted. If at any time during the process this escrow account has a balance less than \$2,500.00, the Applicant shall immediately, upon notification by the Township, replenish said escrow account so that it has a balance of at least \$5,000.00. Such additional escrow funds shall be deposited with the Township before any further action or consideration is taken on the Application. In the event that the amount held in escrow by the Township is more than the amount of the actual invoicing at the conclusion of the project, the remaining balance shall be promptly refunded to the Applicant.
- C) The total amount of the funds needed as set forth in subsection (B) of this section may vary with the scope and complexity of the project, the completeness of the Application and other information as may be needed to complete the necessary review, analysis and inspection of any construction or modification.

Section 15. Exceptions from a Wireless Facilities Permit for Wireless Telecommunications Facilities.

- A) No Person shall be permitted to site, place, build, construct, modify or prepare any site for the placement or use of, Wireless Telecommunications Facilities as of the effective date of this Ordinance without having first obtained a Wireless Facilities Permit for Wireless Telecommunications Facilities. Notwithstanding anything to the contrary in this section, no Wireless Facilities Permit shall be required for those non-commercial exceptions noted in the definition of Wireless Telecommunications Facilities.
- B) All Wireless Telecommunications Facilities existing on or before the effective date of this Ordinance shall be allowed to continue as they presently exist, provided however, that any visible modification of an existing Wireless Telecommunications Facility must comply with this Ordinance.

Section 16. Public Hearing and Notification Requirements.

- A) Prior to the approval of any Application for a Wireless Facilities Permit for Wireless Telecommunications Facilities, a public hearing shall be held by the Township, pursuant to the requirements for public notice. The Township will notify nearby landowners, whose property is

located within fifteen hundred (1500) feet of any property line of the lot or parcel on which the new Wireless Telecommunications Facilities are proposed to be located, as required for ordinances to enforce the general powers of the township.

- B) There shall be no public hearing required for an application to co-locate on an existing tower or other structure, as long as there is no proposed increase in the height of the Tower or structure, including attachments thereto.
- C) The Township shall schedule the public hearing referred to in Subsection (A) of this section once it finds the Application is complete. The Township, at any stage prior to issuing a Wireless Facilities Permit, may require such additional information as it deems necessary.

Section 17. Action on an Application for a Wireless Facilities Permit for Wireless Telecommunications Facilities.

- A) The Township will undertake a review of an Application pursuant to this Ordinance in a timely fashion, and shall act within a reasonable period of time given the relative complexity of the Application and the circumstances, with due regard for the public's interest and need to be involved, and the Applicant's desire for a timely resolution.
- B) The Township may refer any Application or part thereof to any advisory or other committee for a non-binding recommendation.
- C) After the public hearing and after formally considering the Application, the Township may approve, approve with conditions, or deny a Wireless Facilities Permit. Its decision shall be in writing and shall be supported by substantial evidence contained in a written record. The burden of proof for the grant of the permit shall always be upon the Applicant.
- D) If the Township approves the Wireless Facilities Permit for Wireless Telecommunications Facilities, then the Applicant shall be notified of such approval in writing within ten (10) calendar days of the Township's action, and the Wireless Facilities Permit shall be issued within thirty (30) days after such approval. The Applicant will also be required to obtain all necessary building permits and must also comply with the Zoning and Subdivision/Land Development requirements of the Township.
- E) If the Township denies the Wireless Facilities Permit for Wireless Telecommunications Facilities, then the Applicant shall be notified of such denial in writing within ten (10) calendar days of the Township's action.

Section 18. Recertification of a Wireless Facilities Permit for Wireless Telecommunications Facilities.

- A) Between twelve (12) months and six (6) months prior to the five (5) year anniversary date after the effect date of the Wireless Facilities Permit and all subsequent five year anniversaries of the effective date of the original Wireless Facilities Permit for Wireless Telecommunications Facilities, the holder of a Wireless Facilities Permit for such Wireless Telecommunication Facilities shall submit a signed written request to the Township for recertification. In the written request for recertification, the holder of such Wireless Facilities Permit shall note the following:

- 1) The name of the holder of the Wireless Facilities Permit for the Wireless Telecommunications Facilities;
 - 2) If applicable, the number or title of the Wireless Facilities Permit;
 - 3) The date of the original granting of the Wireless Facilities Permit;
 - 4) Whether the Wireless Telecommunications Facilities have been moved, re-located, rebuilt, or otherwise visibly modified since the issuance of the Wireless Facilities Permit and if so, in what manner;
 - 5) If the Wireless Telecommunications Facilities have been moved, re-located, rebuilt, , or otherwise visibly modified, then whether the Township approved such action, and under what terms and conditions, and whether those terms and conditions were complied with;
 - 6) That the Wireless Telecommunications Facilities are in compliance with the Wireless Facilities Permit and compliance with all applicable codes, Laws, rules and regulations including that all federal and state mandated reports have been timely filed and accepted;
 - 7) Recertification that the Tower and attachments both are designed and constructed and continue to meet all local, Township, State and Federal structural requirements for loads, including wind and ice loads. Such recertification shall be by a Professional Engineer licensed in the State who is not on the Townships unacceptable Professional Engineers list, the cost of which shall be borne by the Applicant.
- B) If, after such review, the Township determines that the permitted Wireless Telecommunications Facilities are in compliance with the Wireless Facilities Permit and all applicable statutes, laws, local laws, ordinances, codes, rules and regulations, then the Township may issue a recertification of the Wireless Facilities Permit for the Wireless Telecommunications Facilities, which may include any new provisions or conditions that are mutually agreed upon, or that are required by applicable statutes, laws, ordinances, codes, rules or regulations. If, after such review it is determined that the permitted Wireless Telecommunications Facilities are not in compliance with the Wireless Facilities Permit and all applicable statutes, laws, ordinances, codes, rules and regulations, then the Township may refuse to issue a recertification Wireless Facilities Permit for the Wireless Telecommunications Facilities, and in such event, such Wireless Telecommunications Facilities shall not be used after the date that the Applicant receives written notice of the decision by the Township until such time as the Facility is brought into compliance. Any decision requiring the cessation of use of the Facility or imposing a penalty shall be in writing and supported by substantial evidence contained in a written record and shall be promptly provided to the owner of the Facility. The failure to file on time any federal or state mandated report or to have requested a modification of the Wireless Facilities Permit when required by this ordinance or any substantial misstatement on the re-certification request shall be sufficient in and of itself to refuse re-certification.
- C) If the Applicant has submitted all of the information requested and required by this Ordinance, and if the review is not completed, as noted in subsection (B) of this section, prior to the five (5) year anniversary date of the Wireless Facilities Permit, or subsequent five year anniversaries, then the Applicant for the permitted Wireless Telecommunications Facilities shall receive an extension of the Wireless Facilities Permit for up to six (6) months, in order for the completion of the review.
- D) If the holder of a Wireless Facilities Permit for Wireless Telecommunications Facilities does not submit a request for recertification of such Wireless Facilities Permit within the timeframe noted in subsection (A) of this section, then such Wireless Facilities Permit and any authorizations granted thereunder shall cease to exist on the date of the fifth anniversary of the original granting of the Wireless Facilities Permit, or subsequent five year anniversaries, unless the holder of the

Wireless Facilities Permit adequately demonstrates that extenuating circumstances prevented a timely recertification request. If the Township agrees that there were legitimately extenuating circumstances, then the holder of the Wireless Facilities Permit may submit a late recertification request or Application for a new Wireless Facilities Permit.

Section 19. Extent and Parameters of Wireless Facilities Permit for Wireless Telecommunications Facilities.

The extent and parameters of a Wireless Facilities Permit for Wireless Telecommunications Facilities shall be as follows:

- 1) such Wireless Facilities Permit shall be non-exclusive;
- 2) such Wireless Facilities Permit shall not be assigned, transferred or conveyed without the express prior written notification to the Township.
- 3) such Wireless Facilities Permit may, following a hearing upon due prior notice to the Applicant, be revoked, canceled, or terminated for a violation of the conditions and provisions of the Wireless Facilities Permit, or for a material violation of this Ordinance after prior written notice to the holder of the Wireless Facilities Permit.

Section 20. Application Fee.

- A) At the time that a person submits an Application for a Wireless Facilities Permit for a new Tower, such person shall pay a non-refundable application fee of \$5,000.00 to the Township. If the Application is for a Wireless Facilities Permit for co-locating on an existing Tower or other suitable structure, where no increase in height of the Tower or structure is required, the non-refundable fee shall be \$2,000.00.
- B) No Application fee is required in order to re-certify a Wireless Facilities Permit for Wireless Telecommunications Facilities, unless there has been a visible modification of the Wireless Telecommunications Facility since the date of the issuance of the existing Wireless Facilities Permit for which the conditions of the Wireless Facilities Permit have not previously been modified. In the case of any modification, the fees provided in Subsection (A) shall apply.

Section 21. Performance Security.

The Applicant and the owner of record of any proposed Wireless Telecommunications Facilities property site shall, at its cost and expense, be jointly required to execute and file with the Township a bond, or other form of security acceptable to the Township as to type of security and the form and manner of execution, in an amount of at least \$75,000.00 and with such sureties as are deemed sufficient by the Township to assure the faithful performance of the terms and conditions of this Ordinance and conditions of any Wireless Facilities Permit issued pursuant to this Ordinance. Notwithstanding anything to the contrary, the security for a co-location on an existing wireless communication facility shall be in the amount of at least \$25,000. The full amount of the bond or security shall remain in full force and effect throughout the term of the Wireless Facilities Permit and/or until any necessary site restoration is completed to restore the site to a condition comparable to that which existed prior to the issuance of the original Wireless Facilities Permit.

Section 22. Reservation of Authority to Inspect Wireless Telecommunications Facilities.

In order to verify that the holder of a Wireless Facilities Permit for Wireless Telecommunications Facilities and any and all lessees, renters, and/or licensees of Wireless Telecommunications Facilities, place and construct such facilities, including Towers and Antennas, in accordance with all applicable technical, safety, fire, building, and zoning codes, Laws, ordinances and regulations and other applicable requirements, the Township may inspect all facets of said permit holder's, renter's, lessee's or licensee's placement, construction, modification and maintenance of such facilities, including, but not limited to, Towers, Antennas and buildings or other structures constructed or located on the permitted site.

Section 23. Annual NIER Certification.

The holder of the Wireless Facilities Permit shall, annually, certify to the Township that NIER levels at the site are within the threshold levels adopted by the FCC.

Section 24. Liability Insurance.

- A) A holder of a Wireless Facilities Permit for Wireless Telecommunications Facilities shall secure and at all times maintain public liability insurance for personal injuries, death and property damage, and umbrella insurance coverage, for the duration of the Wireless Facilities Permit in amounts as set forth below
 - 1) Commercial General Liability covering personal injuries, death and property damage: \$1,000,000 per occurrence/\$2,000,000 aggregate;
 - 2) Automobile Coverage: \$1,000,000.00 per occurrence/ \$2,000,000 aggregate;
 - 3) Workers Compensation and Disability: Statutory amounts.
- B) The Commercial General liability insurance policy shall specifically include the Township and its officers, boards, employees, committee members, attorneys, agents and consultants as additional named insureds.
- C) The insurance policies shall be issued by an agent or representative of an insurance company licensed to do business in the State and with a Best's rating of at least A.
- D) The insurance policies shall contain an endorsement obligating the insurance company to furnish the Township with at least thirty (30) days prior written notice in advance of the cancellation of the insurance.
- E) Renewal or replacement policies or certificates shall be delivered to the Township at least fifteen (15) days before the expiration of the insurance that such policies are to renew or replace.
- F) Before construction of a permitted Wireless Telecommunications Facilities is initiated, but in no case later than fifteen (15) days after the grant of the Wireless Facilities Permit, the holder of the Wireless Facilities Permit shall deliver to the Township a copy of each of the policies or certificates representing the insurance in the required amounts.

Section 25. Indemnification.

- A) Any application for Wireless Telecommunication Facilities that is proposed for Township property, pursuant to this Ordinance, shall contain a provision with respect to indemnification. Such provision shall require the applicant, to the extent permitted by the Law, to at all times defend, indemnify, protect, save, hold harmless, and exempt the Township, and its officers, boards, employees, committee members, attorneys, agents, and consultants from any and all penalties, damages, costs, or charges arising out of any and all claims, suits, demands, causes of action, or award of damages, whether compensatory or punitive, or expenses arising therefrom, either at law or in equity, which might arise out of, or are caused by, the placement, construction, erection, modification, location, products performance, use, operation, maintenance, repair, installation, replacement, removal, or restoration of said Facility, excepting, however, any portion of such claims, suits, demands, causes of action or award of damages as may be attributable to the negligent or intentional acts or omissions of the Township, or its servants or agents. With respect to the penalties, damages or charges referenced herein, reasonable attorneys' fees, consultants' fees, and expert witness fees are included in those costs that are recoverable by the Township.
- B) Notwithstanding the requirements noted in subsection (A) of this section, an indemnification provision will not be required in those instances where the Township itself applies for and secures a Wireless Facilities Permit for Wireless Telecommunications Facilities.

Section 26. Fines.

- A) In the event of a violation of this Ordinance or any Wireless Facilities Permit issued pursuant to this Ordinance, the Township may impose and collect, and the holder of the Wireless Facilities Permit for Wireless Telecommunications Facilities shall pay to the Township, fines or penalties as set forth below.
- B) A violation of this ordinance is hereby declared to be a summary offense, punishable by a fine not exceeding \$1,000.00 and with a maximum jail sentence of ninety (90) days per occurrence with each week being a separate occurrence which may be prosecuted as such. The procedure for the prosecution of this violation shall be in accordance with Section 1601 (c.1) (2) of the Second Class Township Code as amended.
- C) Notwithstanding anything in this Ordinance, the holder of the Wireless Facilities Permit for Wireless Telecommunications Facilities may not use the payment of fines, liquidated damages or other penalties, to evade or avoid compliance with this Ordinance or any section of this Ordinance. An attempt to do so shall subject the holder of the Wireless Facilities Permit to termination and revocation of the Wireless Facilities Permit. The Township may also seek injunctive relief to prevent the continued violation of this Ordinance, without limiting other remedies available to the Township.

Section 27. Default and/or Revocation.

- A) If Wireless Telecommunications Facilities are repaired, rebuilt, placed, moved, re-located, modified or maintained in a way that is inconsistent or not in compliance with the provisions of this Ordinance or of the Wireless Facilities Permit, then the Township shall notify the holder of the Wireless Facilities Permit in writing of such violation. Such notice shall specify the nature of the violation or non-compliance and that the violations must be corrected within seven (7) days of the date of the postmark of the Notice, or of the date of personal service of the Notice,

whichever is earlier. Notwithstanding anything to the contrary in this subsection or any other section of this Ordinance, if the violation causes, creates or presents an imminent danger or threat to the health or safety of lives or property, the Township may, at its sole discretion, order the violation remedied within twenty-four (24) hours.

- B) If within the period set forth in (A) above the Wireless Telecommunications Facilities are not brought into compliance with the provisions of this Ordinance, or of the Wireless Facilities Permit, or substantial steps are not taken in order to bring the affected Wireless Telecommunications Facilities into compliance, then the Township may revoke such Wireless Facilities Permit for Wireless Telecommunications Facilities, and shall notify the holder of the Wireless Facilities Permit within forty-eight (48) hours of such action.

Section 28. Removal of Wireless Telecommunications Facilities.

- A) Under the following circumstances, the Township may determine that the health, safety, and welfare interests of the Township warrant and require the removal of Wireless Telecommunications Facilities.
- 1) Wireless Telecommunications Facilities with a permit have been abandoned (i.e. not used as Wireless Telecommunications Facilities) for a period exceeding ninety consecutive (90) days or a total of one hundred-eighty (180) days in any three hundred-sixty five (365) day period, except for periods caused by force majeure or Acts of God, in which case, repair or removal shall commence within 90 days;
 - 2) Permitted Wireless Telecommunications Facilities fall into such a state of disrepair that it creates a health or safety hazard;
 - 3) Wireless Telecommunications Facilities have been located, constructed, or modified without first obtaining, or in a manner not authorized by, the required Wireless Facilities Permit, or any other necessary authorization.
- B) If the Township makes such a determination as noted in subsection (A) of this section, then the Township shall notify the landowner and holder of the Wireless Facilities Permit for the Wireless Telecommunications Facilities within forty-eight (48) hours that said Wireless Telecommunications Facilities are to be removed within thirty (30) days, the Township may approve an interim temporary use agreement/permit, such as to enable the sale of the Wireless Telecommunications Facilities.
- C) The landowner or holder of the Wireless Facilities Permit, or its successors or assigns, shall dismantle and remove such Wireless Telecommunications Facilities to surface level, and all associated structures and facilities, from the site and restore the site to as close to its original condition as is possible, such restoration being limited only by physical or commercial impracticability, within ninety (90) days of receipt of written notice from the Township. However, if the owner of the property upon which the former Wireless Telecommunications Facilities are located wishes to retain any access roadway to the Wireless Telecommunications Facilities, the owner may do so with the approval of the Township. The retention of such an access way shall in no manner be considered a waiver of any future subdivision access road requirements of Mercer County or the Township.
- D) If Wireless Telecommunications Facilities are not removed or substantial progress has not been made to remove the Wireless Telecommunications Facilities within ninety (90) days after the

permit holder and landowner have received notice, then the Township may direct its own employees or contract with and independent contractor to remove the Wireless Telecommunications Facilities at the sole expense of the landowner or Wireless Facilities Permit holder its successors or assigns. The cost of the removal carried out under this section shall become a municipal lien against the land and the personal property and former fixtures so removed.

- E) If, the Township removes, or causes to be removed, Wireless Telecommunications Facilities, and the landowner and/or owner of the Wireless Telecommunications Facilities does not pay the cost of removal and/or remove it from the site to a lawful location within ten (10) days of being notified by regular mail of the completion of the taking down of the facility, then the Township may treat the facilities as abandoned and sell them and their components.
- F) Notwithstanding anything in this Section to the contrary, the Township may approve a temporary use permit/agreement for the Wireless Telecommunications Facilities, for no more ninety (90) days, during which time a suitable plan for removal, conversion, or re-location of the affected Wireless Telecommunications Facilities shall be developed by the holder of the Wireless Facilities Permit, subject to the approval of the Township, and an agreement to such plan shall be executed by the holder of the Wireless Facilities Permit and the Township. If such a plan is not developed, approved and executed within the ninety (90) day time period, then the Township may take possession of and dispose of the affected Wireless Telecommunications Facilities in the manner provided in this Section.

Section 29. Relief.

Any Applicant desiring relief, waiver or exemption from any aspect or requirement of this Ordinance may request such at the pre-Application meeting, provided that the relief or exemption is contained in the original Application for either a Wireless Facilities Permit, or in the case of an existing or previously granted Wireless Facilities Permit a request for modification of its Tower and/or facilities. Such relief may be temporary or permanent, partial or complete. However, the burden of proving the need for the requested relief, waiver or exemption is solely on the Applicant to prove. The Applicant shall bear all costs of the Township in considering the request and the relief, waiver or exemption. No such relief or exemption shall be approved unless the Applicant demonstrates by clear and convincing evidence that, if granted the relief, waiver or exemption will have no significant affect on the health, safety and welfare of the Township, its residents and other service providers.

Section 30. Periodic Regulatory Review by the Township.

- A) The Township may at any time conduct a review and examination of this entire Ordinance.
- B) If after such a periodic review and examination of this Ordinance, the Township determines that one or more provisions of this Ordinance should be amended, repealed, revised, clarified, or deleted, then the Township may take whatever measures are necessary in accordance with applicable Law in order to accomplish the same. It is noted that where warranted, and in the best interests of the Township, the Township may repeal this entire Ordinance at any time.
- C) Notwithstanding the provisions of subsections (A) and (B) of this Section, the Township may at any time, and in any manner (to the extent permitted by Federal, State, or local law), amend, add, repeal, and/or delete one or more provisions of this Ordinance.

Section 31. Adherence to State and/or Federal Rules and Regulations.

- A) To the extent that the holder of a Wireless Facilities Permit for Wireless Telecommunications Facilities has not received relief, or is otherwise exempt, from appropriate State and/or Federal agency rules or regulations, then the holder of such a Wireless Facilities Permit shall adhere to, and comply with, all applicable rules, regulations, standards, and provisions of any State or Federal agency, including, but not limited to, the FAA and the FCC. Specifically included in this requirement are any rules and regulations regarding height, lighting, security, electrical and RF emission standards.
- B) To the extent that applicable rules, regulations, standards, and provisions of any State or Federal agency, including but not limited to, the FAA and the FCC, and specifically including any rules and regulations regarding height, lighting, and security are changed and/or are modified during the duration of a Wireless Facilities Permit for Wireless Telecommunications Facilities, then the holder of such a Wireless Facilities Permit shall conform the permitted Wireless Telecommunications Facilities to the applicable changed and/or modified rule, regulation, standard, or provision within a maximum of twenty-four (24) months of the effective date of the applicable changed and/or modified rule, regulation, standard, or provision, or sooner as may be required by the issuing entity.

Section 32. Conflict with Other Laws.

Where this Ordinance differs or conflicts with other Laws, rules and regulations, unless the right to do so is preempted or prohibited by the Township, State or federal government, this Ordinance shall apply.

Section 33. Effective Date.

This Ordinance shall be effective five days after passage, pursuant to applicable legal and procedural requirements.

Section 34. Authority.

This Local Ordinance is enacted pursuant to applicable authority granted by the State and federal government.

ORDAINED AND ENACTED into an Ordinance and passed by the New Vernon Township Board of Supervisors on this 11th day of July, 2002

ATTEST:

Secretary

Chairman

Supervisor

Supervisor

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