

LEHMAN TOWNSHIP
LUZERNE COUNTY
PENNSYLVANIA

ZONING ORDINANCE
AS AMENDED
DATE OF ENACTMENT
DECEMBER 27, 2007

MOST RECENT DATE OF AMENDMENT: FEBRUARY 17, 2014

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**ARTICLE 1
GENERAL PROVISIONS**

SECTION 101 TITLE

The official title of this Ordinance is: Lehman Township Zoning Ordinance.

SECTION 102 PURPOSE:

This Ordinance is enacted to accomplish the purposes enumerated in Section 604 of the Pennsylvania Municipalities Planning Code, Act 247, as amended. The provisions of this Ordinance are designed to achieve the following:

- A. To promote, protect and facilitate one or more of the following: the public health, safety, morals, general welfare, coordinated and practical community development, proper density of population, emergency management preparedness, airports and national defense facilities, the provisions of adequate light and air, access to incident solar energy, police protection, vehicle parking and loading space, transportation, water, sewage, schools, recreational facilities, public grounds, the provision of a safe, reliable and adequate water supply for domestic, commercial, agricultural or industrial use, and other public requirements; as well as preservation of natural, scenic and historic values in the environment and preservation of forests, wetlands, aquifers and floodplains.
- B. To prevent one or more of the following: overcrowding of land, blight, danger and congestion in travel and transportation, loss of health, life or property from fire, flood, panic or other dangers.
- C. To preserve prime agriculture and farmland considering topography, soil type and classification and present use.
- D. To provide for the use of land within the municipality for residential housing of various dwelling types encompassing all basic forms of housing, including single-family and two-family dwellings, and a reasonable range of multifamily dwellings in various arrangements, mobile homes and mobile home parks, provided however, that the zoning ordinance shall not be deemed invalid for the failure to provide any other specific dwelling type.
- E. To accommodate reasonable overall community growth, including population and employment growth, and opportunities for development of a variety of residential dwelling types and nonresidential uses.

SECTION 103 COMMUNITY DEVELOPMENT OBJECTIVES

The enactment of this Ordinance is intended to assist in achieving and promoting the following goals and objectives of the Lehman Township of the Back Mountain COG Regional Comprehensive Plan which includes but is not limited to the following:

LAND USE

Goal: Provide for orderly development and preservation of open space and natural resources by:

1. Establishing growth centers in the urban, suburban and village areas of the Back Mountain region, and
2. Creating agricultural and natural resource buffers around these growth centers to avoid impacts from sprawl development.

Objectives:

Limit new development in the most environmentally sensitive land through a comprehensive set of land management tools including growth boundaries, conservation zoning and transfer-of-development rights programs.

Manage development within designated Growth Areas to minimize the disturbance of natural resources and provide open spaces and conservation areas to buffer development.

Discourage conventional large-lot residential development (e.g., single-family homes on 1- and 2-acre lots) by encouraging clustered conservation design as “by-right,” avoiding environmentally constrained land and creating linked open spaces throughout developed areas

Encourage the revitalization efforts of downtown Dallas Borough to ensure its place as the urban hub of the Back Mountain region.

Adopt appropriate land use plans and zoning regulations to encourage new mixed use village-style development in appropriate suburban growth areas that are adjacent to existing infrastructure.

Invest in streetscape improvements and adopt commercial development design guidelines that will, over time, enhance the appearance of existing commercial centers and encourage attractive new commercial development.

Manage adaptive use, sensitive infill development and village extensions in the existing and potential village centers in Kingston, Lehman and Dallas Townships to provide for appropriate village growth centers.

Encourage transfer-of-development rights across municipal boundaries, purchase-of-development rights, conservation easements, historic districts and agricultural conservation easements with the intent of meeting passive open space requirements in targeted agricultural and natural resource

HOUSING

Goal: Provide housing opportunities in appropriate areas to meet the needs of all Back Mountain area residents, regardless of household size, age and/or income.

Objectives:

Manage new housing location through a balanced pattern of development that preserves and enhances existing communities and the natural and scenic landscapes of the region.

Provide affordable housing options for residents of all income levels throughout the region.

Provide a full-range of independent and assisted living housing options for senior residents that will allow them to stay in the region as their interests and needs change.

Stabilize existing residential areas in older neighborhoods through effective code enforcement and the preservation of the housing stock.

ECONOMIC DEVELOPMENT

Goals:

Recognize Dallas Borough as the “downtown” of the region, supporting the Borough’s downtown revitalization efforts;

Concentrate other retail commercial, office and industrial activity in designated areas of the region; and

Maintain the economic viability of existing commercial districts.

Objectives:

Preserve and build upon downtown Dallas Borough as the cultural, financial and commercial center of the Back Mountain Region.

Encourage expanded shopping enclaves and commercial services in mixed-use village settings.

Provide an affordable range of housing types to assure the availability of an adequate workforce for area employers.

TRANSPORTATION

Goal: To provide for a safe and efficient multi-modal transportation system that supports the current and future needs of residents, visitors, and businesses of the Back Mountain area that strengthens preferred land use patterns, protects the environment, preserves and enhances the quality of life and can be achieved at a publicly acceptable cost.

Objectives

Maintain and manage existing transportation facilities and services to optimize efficiency.

Focus transportation investments to encourage smart-growth land use patterns that maximize use of the transportation investments.

Offer mobility options that expand transportation capacity.

Recognize the need to manage travel demand in addressing traffic congestion and environmental objectives.

Provide roads and bridges that are in good condition and increase transportation safety and efficiency while protecting environmental quality and supporting land use and economic development objectives.

Provide needed pedestrian and bicycle facilities to use as a safe and healthy alternative to automobile travel. Support the role of walking and bicycling in promoting area tourism and quality of life.

OPEN SPACE

Goal: Maximize preservation/conservation of open space and natural resources throughout the Back Mountain while supporting economic growth in the region.

Objectives:

Maximize open space conservation throughout the Back Mountain through public/private strategies.

Increase open space preservation/conservation in Highest Priority Watersheds (designated as “Rural Resource Areas” in the land use plan), through direct acquisition and proactive planning.

Protect priority watersheds and headwater streams from encroachment and land development practices that degrade the quality of these systems.

Implement stormwater Best Management Practices.

Protect wetlands, floodplains, riparian zones, woodlands, and other environmentally sensitive resources through improved subdivision land development regulations.

GREENWAYS & ECOTOURISM

Goal: Create a regional recreational greenway system, offering major outdoor recreational benefits, increasing biodiversity functions, reversing habitat fragmentation, and enhancing potential for increased ecotourism focusing on a renewed and enhanced Dallas Borough, by linking:

Major water feature “nodes” in the area;

Large public/quasi-public recreational land holdings;

New public land acquisitions through the Theta Lands Project;

The major Back Mountain Trail (BMT) greenway project, including Dallas Borough ecotourism “node”.

Objectives:

Define proposed Greenway Linkages plan for Huntsville Reservoir/Dallas Borough to Harveys Lake, linking with Back Mountain Trail; investigate link to Back Mountain Regional Recreation Center and Francis Slocum State Park.

Define proposed Greenway Linkages plan for Ceasetown Reservoir to Harveys Lake; connect to Lake Silkworth and Moon Lake Park, Lackawanna State Forest, etc.

Work with Luzerne County to define Back Mountain Ecotourism Campaign: A World Away Next Door.

RECREATION & CULTURAL RESOURCES

Goal: Provide appropriate outdoor recreational service levels and facilities and coordinate these services and facilities on an area wide basis to provide a broad range of facilities and programs that enhance quality of life, and are sensitive to fiscal constraints and the overall tax burden on owners and residents.

Objectives:

Provide a balance of active and passive outdoor recreational facilities readily accessible for all residents within the Back Mountain study area.

Coordinate and work more closely with Back Mountain Recreation, Inc. as the area wide recreational coalition that implements study area recreational programs, including recreational facilities.

Coordinate and work more closely with the public school districts in the study area with focus on use of school recreational facilities, working to maximize efficiency, level of service and community benefits of recreational services and facilities; include other educational institutions such as College Misericordia, Penn State University, etc.

Integrate more fully (where feasible) the outstanding natural features of the study area, including the major water supply reservoirs and regional recreational facilities, such as Francis Slocum State Park/Lake and the evolving Back Mountain Trail (BMT), into the outdoor recreational system.

Expand local municipal trail systems and provide connections to the regional trail system (BMT) as well as connections to other nearby open spaces, residential areas, commercial areas and other recreation facilities.

Strengthen Lehman Township’s role as a recreational center for the Back Mountain region.

COMMUNITY SERVICES

Goal: Provide appropriate community services for the protection, health and safety of residents throughout the Region, while reducing unnecessary tax burdens.

Objectives:

Regionally coordinate community services to maintain or increase quality while reducing costs of delivery.

Recognize that schools should be integrated physically and socially into residential communities.

Coordinate services between law enforcement, park rangers, fire companies, and other emergency services throughout the Back Mountain.

Understand, and where appropriate, implement tools to achieve service delivery efficiency, such as privatization and inter-municipal cooperation.

WATER AND WASTEWATER

Goal:

Plan sewers and water supply systems to articulate desired growth and development patterns, ensuring safe and reliable service levels.

Improve the function of the water and wastewater systems to make them more environmentally sustainable.

Objectives

Plan sewers and water supply systems to articulate and reinforce the managed growth boundaries described land use growth and development objectives.

Streamline service delivery through coordination and possible expansions of existing institutions, particularly DAMA.

Improve watershed management of major surface water supply sources (in terms of water quantity and quality, stormwater and wastewater.

Improve management of major groundwater supply sources (municipal and private systems) through both quantity-related and quality-related actions.

SECTION 104 REPEALING PROVISION

All Ordinance, or any parts thereof, which are inconsistent or in conflict with this Ordinance, including but not limited to the current Lehman Township Zoning Ordinance as amended, and the current Lehman Township Zoning Map, as amended, are hereby repealed.

SECTION 105 EFFECTIVE DATE

THIS ORDINANCE SHALL TAKE EFFECT FIVE (5) DAYS FOLLOWING ITS DATE OF ENACTMENT:

APPROVED AND ENACTED BY THE BOARD OF SUPERVISORS OF THE TOWNSHIP OF LEHMAN ON THIS 27TH DAY OF DECEMBER, 2007.

LEHMAN TOWNSHIP BOARD OF SUPERVISORS

ATTEST:

TOWNSHIP SECRETARY

**ARTICLE 2
DEFINITIONS**

SECTION 201 APPLICATION AND INTERPRETATION

The definition of words included herein are provided to facilitate the interpretation of this Ordinance for administrative and enforcement purposes. Unless expressly stated otherwise, within the context of the Ordinance, the following shall apply:

1. Words used in the present tense shall include the future tense.
2. The word "person" shall include a profit or nonprofit corporation, company, partnership, individual or single proprietorship.
3. The words "used" or "occupied" as applied to any land or building shall include the words "intended", "arranged", or "designed" to be used or occupied.
4. The word "building" shall include "part thereof" and "structure".
5. The word "lot" shall include "plot" or "parcel".
6. The word "shall" is always mandatory.
7. The singular number shall include the plural, and the plural the singular.
8. The masculine gender shall include the feminine and neuter.
9. The word "street" shall include "road", "highway", and "lane".

SECTION 202 TERMS OR WORDS NOT DEFINED

When terms, phrases, or words are not defined, they shall have the meaning as defined in The Latest Illustrated Book of Development Definitions (H. S. Moskowitz and C. G. Lindbloom, Rutgers, The State University of New Jersey, 2004) or if not defined therein, they shall have their ordinarily accepted meanings or such as the context may imply.

SECTION 203 DEFINITIONS

ABANDONED VEHICLE

An Abandoned Vehicle shall be deemed to include any vehicle, including a trailer, determined and classified to be a Junked Vehicle by the Zoning Officer which remains in such condition for a period of thirty (30) days or greater.

ABANDONMENT:

To cease or discontinue a use or activity without intent to resume, but excluding temporary or short-term interruptions to a use or activity during periods of remodeling,

maintaining, or otherwise improving or rearranging a facility, subject to completion of the work within one year from the issuance of a zoning permit and/or building permit.

ABUTTING:

Having a common border with, or being separated from such a common border by a right-of-way, alley, or easement.

ACCESS:

A way or means of approach to provide physical ingress and/or egress to a property.

ACCESSORY STRUCTURE:

A subordinate structure detached from but located on the same lot as the principal structure, the use of which is incidental and accessory to that of the principal structure.

ACCESSORY USE:

A use incidental to, and on the same lot as, a principal use.

AGRICULTURE:

The use of land for agricultural purposes, including farming, dairying, pasturage, horticulture, floriculture, and animal and poultry husbandry and the necessary accessory uses. The term includes an enterprise that implements changes in production practices and procedures or types of crops, livestock, livestock products or commodities produced consistent with practices and procedures that are normally engaged by farmers or are consistent with technological development within the agricultural industry. The above uses shall not include concentrated animal feeding operations, commercial hog farms, fur farms, fertilizer plants or animal kennels. The keeping of more than two pieces of livestock upon a property, including but not limited to horses, cows, goats, sheep and similar types of animals shall be deemed to constitute an agricultural use.

ALTERATION:

Any change, addition, or modification in construction or occupancy of an existing structure.

ALTERATION, STRUCTURAL:

Any change in the supporting members of a building or structure, such as bearing walls, columns, beams, or girders or in the dimensions or configuration the roof and exterior walls.

AMENDMENT:

A change in the regulations and provisions of the Lehman Township Zoning Ordinance, including changes to boundaries of Zoning Districts as provided upon the Zoning Map.

ANIMAL KENNEL:

Any structure or premises in which five (5) or more dogs or cats or any combination thereof, at least six months of age, are boarded, kept or trained for commercial gain.

ANIMAL HOSPITAL:

A structure or building where animals or pets are given medical or surgical treatment and the boarding of animals is limited to short-term care incidental to the hospital use.

ANTENNA, COMMUNICATION: (See Communications Antenna)

AUTOMOTIVE SALES:

The use of any building, structure or land, other than a street, for the display and sale or rental of motor vehicles, which are in operable condition. The owner/operator of this business must have a valid state license for the sale or rental of such motor vehicles. Any related repair shall be conducted within an enclosed building and shall be an accessory use.

AUTOMOBILE WRECKING YARD: (SEE ALSO JUNKYARDS)

The dismantling or wrecking of used motor vehicles or trailers, or the storage, sale, or dumping of dismantled or wrecked vehicles or their parts. The presence on any lot or parcel of land of two or more motor vehicles, which, for a period exceeding 30 days, have not been capable of operating under their own power and from which parts have been or are to be removed for reuse or sale, shall constitute prima-facie evidence of an automobile wrecking yard.

BASEMENT:

That portion of a building that is partly or completely below grade. A basement shall be counted as a story if the vertical distance from the average adjoining grade to the ceiling is five (5) feet or greater.

BED AND BREAKFAST:

A residence occupied by an owner providing short term lodging accommodations for compensation for transient guests. No more than five guest rooms shall be available for said accommodations. Any meals included as part of the services shall be restricted to individuals who have registered for lodging within said residence.

BILLBOARD:

A sign that identifies or communicates a commercial or noncommercial message related to an activity conducted, a service rendered, or a commodity sold at a location other than where the sign is located.

BOARDING HOUSE OR ROOMING HOUSE:

A structure or portion thereof that contains rooming units which are rented or leased, with the occupants of said units being non-transient, and using said location as a legal place of residence. The term “Boarding House or Rooming House,” shall specifically exclude the following:

Dwelling
Motel and/or Hotel
Group Residence

Dwelling Unit
Bed and Breakfast Facility

BUFFER AREA:

A method of improvements designed to separate and substantially obstruct the view of two adjacent land uses or properties from one another. For the purpose of this Ordinance when a buffer area is required it shall be deemed represent a fence or stone wall with cork fitting, eight (8) feet in height with two staggered rows of evergreen trees planted in front of the fence with the spacing distance between trees the not less than eight feet or greater than ten (10) feet. Said trees shall be not less than eight (8) feet in height at the time of planting. Unless stated otherwise, a buffer area may be part of the minimum setback distance for the land use requiring said buffer.

BUILDING:

Any structure having a roof supported by columns or walls and intended for shelter, housing or enclosure of persons, animals, or property.

Building, Accessory: A subordinate structure on the same lot as the principal or main building or use occupied or devoted to a use incidental to the principal use.

Building Coverage: The horizontal area measured within the outside of the exterior walls of the ground floor of all principal and accessory buildings on a lot.

Building Envelope: An area of a lot upon which development may occur. Excluding deed restrictions, covenants, easements or other site conditions, the governing minimum setbacks requirements for a given zoning district establishes the building envelope.

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

Building Height: The vertical distance of a building measure from the average elevation of the proposed finished grade within twenty (20) feet of the structure to the highest point of the roof for flat roofs; to the deck line of mansard roofs and to the average height between eaves and the ridge for gable, hip and gambrel roofs, excluding chimneys.

BULK FUEL STORAGE FACILITY:

Any facility where (1) gasoline is stored in bulk for distribution by delivery truck; (2) fuel, including but not limited to kerosene, home heating oil, diesel fuel, gasoline, or propane, is stored in large volume tanks for distribution to retail or wholesale establishments; or (3) the total combined on-site storage of fuel exceeds twenty thousand (20,000) gallons.

CALIPER:

The diameter of a tree trunk measured at a point 6 inches above the ground for a tree measuring up to and including 4 inches in diameter and 12 inches above the ground for a tree measuring above 4 inches in diameter. The term is usually applied to nursery stock.

CAMPGROUNDS:

An area to be used for transient occupancy by camping in tents, camp trailers, recreational vehicles, travel trailers, or similar movable or temporary sleeping quarters.

CAMPSITE:

Any plot of land within a campground intended for exclusive occupancy by a camping unit or units under the control of a camper.

CAMPING UNIT:

Any tent, trailer, recreational vehicle, or similar structure established or maintained and operated in a campground as temporary living quarters for recreational, or vocational purposes.

CARPORT:

A roofed structure opened on two (2) or more sides and used for the storage of private motor vehicles. It may be constructed as a separate accessory structure or part of the principal structure.

CELLAR:

The portion of any building which is located partly underground, but having one-half or more of its height, measured from finished floor grade to finished ceiling, below the average grade of the adjoining land. A cellar shall not be counted as a story for the purposes of administering height regulations of this Ordinance.

CEMETERY:

Land used or intended to be used for the burial of the dead and dedicated for cemetery purposes, including crematories, mausoleums, and mortuaries when operated in conjunction with and within the boundaries of such cemetery.

CHANGE OF USE:

Any use which differs from the previous use of a building, structure or land.

CHURCH: (SEE PLACE OF WORSHIP)

CLEAR SIGHT TRIANGLE

An area of unobstructed vision at street intersections defined by lines of sight between points at a given distance from the "corner" so as not to interfere with traffic visibility across the corner.

CLINIC (MEDICAL):

A facility comprised of professional offices, for the examination and treatment of persons as outpatients by physicians, dentists or other licensed medical specialists, in which said medical practitioners work in cooperative association. Said clinics may provide medical services customarily available at hospitals, excluding overnight care of patients and 24 hour emergency service.

CHILD CARE FACILITY: (See DAY CARE FACILITY)

CHIMNEY:

A vertical structure containing one or more flues for drawing off emissions from a stationary source of combustion, including but not limited to those attached to an Outdoor Fuel Furnace

CLUB/PRIVATE LODGE:

An area of land or building used by a recreational, civic, social, fraternal, religious, political or labor union association of persons for meetings and routine socializing and recreation that are limited to bona fide members and their occasional guests, and persons specifically invited to special celebrations, but which is not routinely open to members of the general public and which is not primarily operated as a for-profit business. The club shall involve a meaningful and substantial membership system, as opposed to a token system. This use shall not include a target range for outdoor shooting, boarding house, a tavern, a restaurant or an auditorium unless that particular use is permitted in that District and the requirements of that use are met.

COLLEGE/UNIVERSITY

An institution for post-secondary education, public or private, offering courses in general, technical, or religious education and not operated for profit. It operates in buildings owned or leased by the institution for administrative and faculty offices, classrooms, laboratories, chapels, auditoriums, lecture halls, libraries, student and faculty centers, athletic facilities, and dormitories.

COMMERCIAL USE:

An occupation, employment, or enterprise that is carried on for profit by the owner, lessee, or licensee.

COMMERCIAL COMMUNICATION ANTENNA:

Any device used for the transmission or reception of radio, television, wireless telephone, pager, commercial mobile radio services, or any wireless communication signals, including without rotation, omnidirectional or whip antennas and directional or panel antennas, owned and operated by any person or entity licensed by the Federal Communications Commission (FCC) to operate such device. This definition shall not include private residences mounted satellite dishes or television antennas or amateur radio equipment, including without limitation, ham or citizen band radio antennas.

COMMERCIAL COMMUNICATIONS EQUIPMENT BUILDING:

An unmanned building or cabinet containing communication equipment for the operation of a Commercial Communication Antenna and covering an area on the ground not greater than two hundred fifty (250) square feet.

COMMERCIAL COMMUNICATION TOWER

A structure other than a building, such as a monopole, self-supporting or guyed tower, designed and used to support a Commercial Communication Antenna.

COMMERCIAL COMMUNICATIONS TOWER; HEIGHT:

The vertical distance measured from the ground to the highest point on a communications Tower, including antennas mounted on the tower.

COMPREHENSIVE PLAN:

The Back Mountain Area COG Regional Comprehensive Plan, including any amendments, updates, or revisions thereto as adopted by Lehman Township.

COMMON FACILITIES:

All the real property and improvements, including without limitation, landscaped areas, buffers, open space not included within title lines of any privately owned lot, street rights-of-way not dedicated to Lehman Township, owned in common by residents within the development which is served by the facilities.

COMMUNITY ASSOCIATION:

A non-profit organization comprised of homeowners or property owners, the function of which is to maintain and administer property owned in common by member of the association or by the association, to protect and enhance the value of the property owned

individually by each of the members. Homeowners' Associations and Condominium Associations are types of Community Associations.

CONDITIONAL USE:

A use that, owing to some special characteristics attendant to its operation or installation, is permitted in a zoning district subject to approval by the Board of Supervisors and subject to special requirements, different from those usual requirements for the zoning district in which the conditional use may be located.

CONDOMINIUM:

Real estate, portions of which are designated for separate ownership and the remainder of which is designated for common ownership solely by the owners of those separate portions, in accordance with the Pennsylvania Uniform Condominium Act 1980-82, as amended.

CONSERVATION AREA, PRIMARY:

Lands within the 100-year floodplain (including the floodway), wetlands and prohibitive steep slopes (above 25 percent).

CONSERVATION AREA, SECONDARY:

All landscape elements not included in the Primary Conservation Area, which do not create severe limitations for development, but which should be considered for conservation due to their capacity for helping to provide, along with the Primary Conservation Areas, an interconnected system of open space and recreation.

CONSERVATION DESIGN SUBDIVISION:

A residential subdivision designed around permanently preserved natural resources at the dwelling unit density specified in the Township Zoning Ordinance.

CONSERVATION EASEMENT:

A right or interest in land granted primarily for the preservation of the land in its undeveloped state but which may allow limited development (e.g., a residential structure) and other compatible uses such as agriculture and forestry.

CONSTRAINED LAND:

The acreage sum of certain features on the land, each of which is multiplied by a net-out factor set forth in Article 6 of this Ordinance.

CONSERVANCY LOT:

A large, privately owned and maintained lot, containing an existing dwelling, farm complex, or historic structure, comprising part of the required open space in a conservation subdivision. An area of at least one acre surrounding the dwelling, farm complex or historic structure is set aside and is not counted toward the required minimum

open space. The remainder of the conservancy lot is permanently protected open space. Public access to conservancy lots is not required.

CONTRACTOR'S STORAGE:

A lot, building, or part thereof, used to store materials used by a contractor in the construction of a road, highway, structure or building, landscaping or utilities.

CONVENIENCE STORE:

Any retail establishment offering for sale prepackaged food products, household items, and other goods commonly associated with the same.

CONVENIENCE STORE WITH GAS SALES:

Any retail establishment offering for sale prepackaged food products, household items, and other goods commonly associated with the same, along with the retail sales of gasoline and related fuel products.

COUNTY PLANNING COMMISSION:

The Planning Commission of Luzerne County.

CRITICAL AREAS

An area with one or more of the following characteristics: stream corridors, streams, flood plain areas, wetlands, slopes which equal or exceed fifteen (15%) percent, soils classified as highly acidic or highly erodible, soils classified as having a high water table, land and associated soils which display poor percolation, mature stands of native vegetation and aquifer recharge and discharge area.

DAY CARE SERVICES:

The provision of out-of-home care for children or adults for part of a twenty-four (24) hour day, excluding care provided by relatives.

DAY CARE FACILITY:

A facility for the provision of out-of-home care for children or adults for part of a twenty-four (24) hour day, excluding care provided by relatives, and licensed as such by the State.

DAY CARE CENTER:

A structure in which day care services are provided, with no portion of the structure being jointly used as a portion of a family residence.

DAY CARE HOME:

Means a residential structure in which day care services are provided for not more than six (6) persons at any one time, where the care areas are also used as a portion of a family residence.

DBH (Diameter at Breast Height):

The diameter of a tree trunk measured at a point 4.5 feet above the ground at the base of the tree. If a tree divides or splits into multiple trunks below 4.5 feet, the trunk is measured at its most narrow point beneath the split. The term is usually applied to trees in the field (not nursery stock).

DECISION:

Final adjudication of any board or other body granted jurisdiction under any land use ordinance or this act to do so, either by reason of the grant of exclusive jurisdiction or by reason of appeals from determinations. All decisions shall be subject to appeal to the Court of Common Pleas of Luzerne County.

DENSITY:

The number of dwelling units permitted per net unit of land.

DETERMINATION:

Final action by an officer, body or agency charged with the administration of any land use ordinance or applications thereunder, except the following:

1. the governing body;
2. the zoning hearing board; or
3. the planning commission, only if and to the extent the planning commission is charged with final decision on preliminary or final plans under the subdivision and land development ordinance or planned residential development provisions.

Determinations may be appealed only to the boards designated as having jurisdiction for such appeal.

DEVELOPMENT:

Any man-made improvements to improved or unimproved real estate. The construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any building or structure, any mining, dredging, filling, grading, paving, excavation, drilling, land disturbance and any use or extension of the use of land shall be deemed to constitute a development.

DEVELOPMENT PLAN:

The provisions for development included within an application for a subdivision and/or land development, including all covenants relating to use, location and bulk of buildings and other structure intensity of use or density of development, streets, ways and parking facilities, common open space, easements and public facilities. The phrase "development plan" shall mean the written and graphic materials referred to in this definition.

DISTRICT: (See Zoning District)

DORMITORY:

A building intended or used principally for living quarters for a student body or a religious order to a college, university, boarding school, convent, monastery or similar institutional use.

DRIVEWAY:

A privately owned and constructed vehicular access from an approved private or public road into a lot or parcel having a frontage on the road.

DWELLING TYPES:

- A. DWELLING, SINGLE-FAMILY: A detached building arranged or used for occupancy by one (1) family. A mobile home or similar manufactured housing unit which is constructed to be permanently attached and anchored to a permanent foundation shall be deemed to be a single family dwelling unit
- B. DWELLING, TWO FAMILY: A detached or semidetached building where not more than two (2) individual family or dwelling units are entirely separated by vertical walls or horizontal floors, unpierced except by access to the outside or to a common cellar.
- C. DWELLING, MULTIPLE: A building containing three or more dwelling units entirely separated by vertical walls or horizontal floors, unpierced except by access to the outside or to a common cellar. The term "Townhouse" is excluded under this term (See Definition of Townhouse)
- D. TOWNHOUSE: A single structure consisting of not less than three (3) or more than six (6) dwelling units. Each dwelling unit shall have direct ground level access to the outdoors and connected to other dwelling units by one (1) or more party walls with no opening or connecting interior access between units. No dwelling units shall be located over or below another unit.
- E. MOBILE HOME: A transportable, single family dwelling intended for permanent occupancy, contained in one unit, or in two or more units designed to be joined into one integral unit capable of again being separated for repeated towing, which arrives at a site complete and ready for

occupancy except for minor and incidental unpacking and assembly operations, and constructed so that it may be used without a permanent foundation.

DWELLING UNIT:

One or more habitable rooms which are occupied, or which are intended or designed to be occupied as a residence by one family, with permanent facilities for living, sleeping, cooking, and sanitary facilities for exclusive use by the family residing therein.

EARTH DISTURBANCE ACTIVITY:

Any construction or other activity which disturbs the surface of the land including but not limited to excavations, embankments, land development, subdivision development, mineral extraction and the moving, depositing or storing of soil, rock or earth.

EASEMENT:

A grant of one (1) or more of the property rights by the property owner to and/or for the use by the public, a corporation or another person or entity.

EASEMENT, DRAINAGE:

An easement required for the installation of storm water sewers or drainage ditches, and/or required for the preservation or maintenance of a natural stream or watercourse or other drainage facility.

EMERGENCY SERVICES FACILITY:

A building used in the administration and preparation for carrying out all emergency service functions. Said functions shall include but not limited to the operations and training of police, fire, emergency medical, and/or EMA personal and for the storage of supplies, equipment and vehicles. Said buildings may be utilized for both routine public safety functions to protect the health, safety and welfare of the general public and for emergency/disaster response actions

ENTERTAINMENT FACILITIES:

Commercial establishments, excluding any sexually oriented business, engaged in providing entertainment for a fee or an admission charge, such as an arcade, bowling alley, billiard hall, roller skating rink or similar facilities.

ENVIRONMENTAL IMPACT STATEMENT

A report and/or series of reports on the effect of a proposed development or major action which may significantly affect the environment and associated features thereunder.

EXCAVATION AND EXTRACTION OF MINERALS:

The removal or recovery by any means whatsoever of minerals, as so defined in this Ordinance from land or water, on or above the surface thereof, or beneath the land surface whether exposed or submerged. It shall include the incidental screening, washing, crushing and grading of materials originating on the site, and mineral processing as an accessory use.

FAMILY:

One or more persons occupying a dwelling unit and living together as a single nonprofit housekeeping unit. Foster children placed into the care and custody of a family shall be deemed to be a member of the family. A group in excess of four (4) individuals who are not related by blood, marriage or legal adoption, shall not be deemed to constitute a family.

FENCE:

A structure functioning as a boundary or barrier constructed of materials recognized by the fencing industry. Hedges, shrubbery and/or similar vegetation shall not be deemed or considered to be a fence.

FLOOR AREA, GROSS:

The sum of the total horizontal areas of the several floors of all buildings on a lot, measured from the interior faces of exterior walls.

FORESTRY: (ALSO SEE SECTION 902.13 TIMBERING HARVESTING)

The management of forests and timberlands when practiced in accordance with accepted silvicultural principles, through developing, cultivating, harvesting, transporting and selling trees for commercial purposes which does not involve any land development.

FRONTAGE:

The length of the front lot line measured at the street right-of-way line.

GARAGE, PRIVATE:

A noncommercial building for the private use of the owner or occupant of a principal building situated on the same lot of the principal building for the storage of motor vehicles with no facilities for mechanical service or repair of a commercial or public nature.

GARAGE, REPAIR: (SEE ALSO SERVICE STATION)

A commercial building designed and used for the storage, care, repair, or refinishing of motor vehicles including both minor and major mechanical overhauling, paint, and body work.

GARDEN CENTER

A place of business where products and produce are sold to the general public. These centers may include a nursery and/or greenhouses, plants, nursery products and stock, potting soil, hardware, power equipment and machinery, hoes, rakes, shovels, and other garden and farm variety tools and utensils.

GASOLINE SERVICE STATION:

A structure, building or area of land or portion thereof that is used for the retail sale of gasoline or any other motor vehicle fuel that may or may not include as an accessory use, the sale and installation of lubricants, tires, batteries, and similar accessories and other minor servicing and engine tune-ups of motor vehicles, excluding the major mechanical overhauling, paint, and body work of any type of vehicle. Gasoline service stations shall not include service and maintenance activities which include or are comparable to those provided for under the definition of a "Repair Garage".

GENERAL NUISANCE:

Any use of property considered to be substantially inconsistent with the public comfort, convenience, health, safety, and general welfare, exhibiting characteristics that include, but may not be limited to the following:

- properties in a continuing state of disrepair that are not fit for habitation and/or occupancy;
- properties, lacking zoning approval for use a junkyard and/or an automobile wrecking yard, that contain and accumulate trash, junk and/or two (2) or more inoperable vehicles;
- fire and explosion hazards;
- electrical and radioactive disturbances;
- noise and vibration;
- dust, dirt, and fly ash;
- glare;
- smoke and odors and other forms of air pollution.
-

GOVERNING BODY:

The Board of Supervisors of Lehman Township, Luzerne County, Pennsylvania.

GRADE:

The slope of a road, street or other public or private way, specified in percentage (%) terms.

GRADING:

Any stripping, gutting, filling, stockpiling of earth or land, including the land in its cut or filled condition.

GREENHOUSE, COMMERCIAL:

Retail business whose principal activity is the selling of plants grown on the site and having outside storage, growing, and/or display.

GREENWAY LAND:

A parcel or parcels of land and/or water, within a development site set aside for the protection of natural and cultural resources. It is also intended for the use and enjoyment by the residents of such development and possibly the general public. Greenway land is substantially free of structures, but may contain such improvements as are in the finally approved development plan, and does not include individually owned private yards, except in the case of approved conservancy lots. Greenway land may be a combination of natural or naturalized areas (such as the municipal greenway network) and more manicured areas (such as lawn, recreational areas or play fields). Greenway land is permanently restricted against further development. Greenway and Greenway Land are synonymous.

GROUP RESIDENCE:

A dwelling unit which is shared under congregate living arrangements by more than four (4) persons, who are residents of the dwelling unit by virtue of their need to receive supervised services limited to health, social and/or rehabilitative services provided by a person or persons or their licensed or certified agents, a governmental agency or their licensed or certified agents, a responsible corporation or their licensed or certified agents, a partnership or limited partnership or their licensed or certified agents or any other legal entity. Such services shall be provided on a continuous basis in a family-like environment to persons who are in need of supervision and/or specialized services in a residential setting.

The following shall not be deemed to constitute a Group Residence:

A boarding home and/or a personal care boarding home.

A facility providing shelter and/or rehabilitative care or treatment of persons for alcoholism and/or an addiction to a controlled substance.

A facility for persons released from or under the jurisdiction of a governmental bureau of corrections or similar institution.

HAZARDOUS SUBSTANCES:

Any material that, by reason of its quantity, concentration, or physical, chemical or infectious characteristics may:

1. cause, or significantly contribute to, an increase in mortality or an increase in a serious irreversible or incapacitating irreversible illness.

2. pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed of or otherwise managed.

This definition shall be deemed to include radioactive material, medical waste and any incendiary device and/or explosive device or material

HEDGEROW:

A linear plant community dominated by trees and/or shrubs. Hedgerows often occur along roads, fence lines, property lines, or between fields, and may occur naturally or be specially planted (e.g. as a windbreak).

HIGHWAY OCCUPANCY PERMIT:

A permit, issued by the Pennsylvania Department of Transportation, the Luzerne County Road and Bridge Department or Lehman Township which authorizes access from a parcel of land onto a highway, road or street which is under the respective jurisdiction of the above entities.

HEALTH/RECREATION FACILITY:

An indoor facility including uses such as game courts, exercise equipment, locker rooms, and related facilities.

HISTORIC RESOURCE:

Any structure that is 75 years or older at the time a subdivision or land development application is submitted for the property on which it is located or any structure that is:

- A. Listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- B. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- C. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior;
or
- D. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 1. By an approved State program as determined by the Secretary of the Interior; or

2. Directly by the Secretary of the Interior in states without an approved program.

HOME OCCUPATION:

An occupation, profession, activity, or use that is clearly a customary, incidental, and secondary use of a residential dwelling unit and which does not alter the exterior of the property or affect the existing residential character of the neighborhood.

HOMEOWNERS ASSOCIATION:

A non-profit organization comprised of homeowners or property owners, planned and operated under negotiated and approved rules and regulations, for the purpose of administering the needs of residents through the maintenance of community owned property. This term is synonymous with property owners association.

HORSE FARM:

A building or structure and/or land whose operator keeps equines primarily for breeding and boarding and which operation may or may not be incidental to the owner's primary occupation.

HOTEL: (ALSO SEE MOTEL)

A facility offering transient lodging accommodations on a daily rate to the general public and providing additional services, such as restaurants, meeting rooms, and recreational facilities.

HUB HEIGHT:

The distance measured from the surface of the tower's foundation to the height of the Wind Turbine hub, to which the blade is attached.

IMPACT ANALYSIS:

A study and/or report, which may be required at the discretion of the Lehman Township Board of Supervisors prior to approval of a conditional use application and/or a rezoning application or by the Zoning Hearing Board prior to approval of an application for a special exception and/or variance to determine the potential impact of the proposed use on activities, utilities, traffic generation and circulation, surrounding land uses, community facilities, environmental features, critical areas, the public health, safety and welfare and other factors directly, indirectly or potentially affected. The applicant shall be responsible for all costs related to any and all reports and/or studies required by the Lehman Township Board of Supervisors or Zoning Hearing Board under or within the context of the term "IMPACT ANALYSIS."

IMPERVIOUS SURFACE:

Any material and/or development that substantially reduces or prevents the infiltration of storm water into previously undeveloped land. Impervious surfaces shall include, but may not be limited to, buildings, roofs, surfaced, graveled or compacted parking areas, streets, sidewalks, driveways and similar vehicular and/or pedestrian right-of-ways.

IMPROVEMENTS:

Man-made physical additions, alterations, and/or changes to buildings or other structures which become part of, placed upon, or affixed to real estate.

INDUSTRY, HEAVY:

A use engaged in the basic processing and manufacturing of materials or products predominately from extracted or raw materials, or a use engaged in storage of, or manufacturing processes using flammable or explosive materials, or storage or manufacturing processes that potentially involve hazardous or commonly recognized offensive conditions.

INDUSTRY, LIGHT:

A use engaged in the manufacture, predominantly from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, packaging, incidental storage, sales, and distribution of such products, but excluding basic industrial processing.

INSTITUTIONAL USE:

A structure or facility which provides medical, health, educational, social and/or rehabilitative services to more than eight (8) persons on a continuous and/or regular basis, excluding a college/university and a facility for persons released from or under the jurisdiction of a governmental bureau of corrections or similar institution.

INVASIVE PLANT SPECIES:

Predominantly non-native, non-indigenous, alien tree, shrub, vine, or herbaceous species that grow or reproduce aggressively, usually because they have few or no natural predators, and which can so dominate that they kill off or drive out many indigenous plant species.

JUNK:

Old, dilapidated, scrap or abandoned metal, paper, building material and equipment, bottles, glass, appliances, furniture, beds and bedding, rags, rubber, motor vehicles, and parts thereof

JUNKED VEHICLE:

Any vehicle, including a trailer, which does not bear current license and inspection stickers or is incapable of being moved under its own power, or presents a hazard or danger to the public by virtue of its state or condition of disrepair. The following conditions, which are not exclusive, are examples of what may constitute a state or condition of disrepair to classify a vehicle to be a junked vehicle.

- a. rusted and/or jagged metal on or protruding from the body of a vehicle;
- b. deflated tires
- c. broken glass or windows on or in the vehicle;
- d. leaking of any fluids from the vehicle;
- e. unsecured and/or unlocked doors, hood or trunk;
- f. storage or placement of the vehicle on concrete blocks;
- g. harboring or rodents, insects or other pests

JUNKYARD: (SEE ALSO AUTOMOBILE WRECKING YARD):

An open area where wastes or used or secondhand materials are bought, sold, exchanged, stored, processed, or handled. Materials shall include but are not limited to scrap iron and other metals, paper, rags, rubber tires, and bottles. An automobile wrecking yard is also considered a junkyard.

LAND DEVELOPMENT:

The improvement of one lot or two (2) or more contiguous lots, tracts or parcels of land for any purpose involving:

- (A) A group of two or more residential or nonresidential buildings, whether proposed initially or cumulatively, or a single nonresidential building on a lot or lots regardless of the number of occupants or tenure.
- (B) Any nonresidential use of land, with or without structures, which encompasses five (5) or more acres of land, excluding agricultural use of land.
- (C) the division or allocation of land or space, whether initially or cumulatively, between or among two (2) or more existing or prospective occupants by means of, or for the purpose of streets, common areas, leaseholds, condominiums, building groups or other features.
- (D) the conversion of an existing single-family detached dwelling or single family semidetached dwelling into more than three (3) residential units. Any conversion, described above, which results in not more than three (3) residential units shall be deemed as a land development if the units are intended to be a condominium.

(E) the development of a mobile home park or the expansion of an existing mobile home park within the context of the definition of said term as contained within this Ordinance.

(F) a single residential structure containing five (5) or more residential units.

LAND DEVELOPMENT: MAJOR:

A land development which does not qualify or classify as a minor land development.

LAND DEVELOPMENT: MINOR:

A development of a parcel of land which contains not more than three (3) detached single family residential structures, whether developed initially or cumulatively.

LAND DISTURBANCE:

Any activity, which exposes soils, alters topography and/or alters woody vegetation, except for removal of a safety hazard, diseased trees, or invasive vegetation.

LANDOWNER:

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

LOT:

A designated parcel, tract or area of land established by a plat or otherwise as permitted by law and to be used, developed or built upon as a unit, for principal and accessory buildings or structures.

LOT AREA:

The total horizontal area within the lot lines of a lot.

LOT AREA, GROSS:

The area of land contained within the limits of the legally described property lines bounding the lot.

LOT AREA, NET:

The area of land contained within the limits of the legally described property lines bounding the lot, exclusive of any street or railroad rights-of-way, common open space, easements for the purposes of access, utility, or stormwater management, prohibitively steep slopes, land within the delineated boundaries of a One Hundred (100) Year Flood Plain, and wetlands as defined by this Ordinance.

LOT, CORNER:

A lot abutting on and at the intersection of two (2) or more streets.

LOT COVERAGE:

Determined by dividing that area of a lot which is occupied or covered by the total horizontal projected surface of all buildings, including covered porches and accessory buildings and structures, by the gross area of that lot.

LOT DEPTH:

The average horizontal distance between the front and rear lot lines.

LOT LINE, FRONT:

The lot line separating a lot from a street right-of-way.

LOT LINE:

A line dividing one (1) lot from another lot or from a street or alley.

LOT LINE, REAR:

The lot line not intersecting a front lot line that is most distant from and most closely parallel to the front lot line. A lot bounded by only three (3) lot lines will not have a rear lot line.

LOT LINE, SIDE:

Any lot line not a front or rear lot line.

LOT OF RECORD:

A lot which exists as shown or described upon a plat or deed and duly recorded in the Office of the Recorder of Deeds of Luzerne County, Pennsylvania, on the effective date of the adoption of this Ordinance.

LOT, THROUGH:

A lot having both its front and rear yards abutting on a street.

LOT WIDTH:

The horizontal distance between side lot lines, measured at the required front setback line.

MANUFACTURED HOME:

A structure, transportable in one or more sections, which is built upon a chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term shall include park trailers, travel trailers, recreational and other similar vehicles placed upon a site for more than 180 consecutive days.

MANUFACTURED HOME PARK:

A parcel, or contiguous parcels of land, which has been planned and improved for the placement of two (2) or more manufactured homes.

MEDIATION:

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

MINERALS:

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

MINERAL PROCESSING:

The refinement of minerals by the removal of impurities, reduction in size, transformation in state, or other means to specifications for sale or use, and the use of minerals in any manufacturing process such as, but not limited to, concrete or cement batching plants, asphalt plants and manufacture of concrete and clay products.

MOBILE HOME:

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

MOBILE HOME LOT:

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

MOBILE HOME PARK:

A parcel or contiguous parcels of land which has been so designated and improved that it contains two (2) or more mobile home lots for the placement thereon of mobile homes.

MOTEL: (also see Hotel)

A building or group of buildings containing apartments and/or rooming units, each of which maintains a separate outside entrance and primarily offering transient lodging accommodations to the general public. Such building or group of buildings may also provide additional services such as restaurants, meeting rooms, and recreational facilities.

MUNICIPALITY:

The Township of Lehman, Luzerne County, Pennsylvania.

NO IMPACT HOME BASED BUSINESS:

A business or commercial activity administered or conducted as an accessory use which is clearly secondary to the use as a residential dwelling, and which involves no customer, client or patient traffic, whether vehicular or pedestrian, pick-up, delivery, or removal functions to or from the premises in excess with those normally associated with a residential use. The business or commercial activity must also comply with the applicable supplemental requirements contained in Article 8 of this Ordinance.

NONCONFORMING LOT:

A lot the area or dimension of which was lawful prior to the adoption or amendment of a zoning ordinance, but which fails to conform to the requirements of the zoning district in which it is located by reasons of such adoption or amendment.

NONCONFORMING STRUCTURE:

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

NONCONFORMING USE:

A use, whether of land or of structure, which does not comply with the applicable use and/or other provisions in the zoning ordinance or amendment heretofore or hereafter enacted, where such use was lawfully in existence prior to the enactment of such ordinance or amendment to its location by reason of annexation.

NURSING HOME:

A facility, as defined under current State licensing requirements, that provides nursing care and related medical or other health services for a period of twenty-four hours or more for individuals not in need of hospitalization, but who because of age, illness or other infirmity, require high-intensity comprehensive planned nursing care.

OFFICE:

A building or portion thereof containing rooms and/or space for conducting the affairs of a business, profession, service, industry or government.

OPEN SPACE:

That part of a particular development tract set permanently aside for the protection of sensitive natural features, greenways, farmland, scenic views and other primary and secondary conservation areas identified by this Ordinance and the Township Zoning Ordinance. Open space may be accessible to the residents of the development and/or the Township, or it may contain areas of farmland, forest land or conservancy lots which are not accessible to development residents or the public. Open space must be substantially free of structures, but may contain such improvements as are in the finally approved development plan. Open space may be a combination of natural or naturalized areas (such as the municipal greenway network) and more manicured areas (such as lawn, recreational areas or play fields). Open space is permanently restricted against further development.

OUTDOOR FUEL FURNACE:

An outdoor fuel burning appliance designed and constructed to burn wood, coal or other recognized fuel in compliance with the manufacturer's recommended specifications. An Outdoor Fuel Furnace shall be deemed to be an accessory structure intended for heating a structure that may be detached and separate from the accessory structure which contains the Outdoor Fuel Furnace.

OUTDOOR STORAGE (COMMERCIAL):

The keeping, in an unroofed area, of any goods, material, merchandise, equipment or vehicles which are related to the operation of a commercial business, excluding the storage of solid waste, hazardous substances, refuse, junk, junked vehicles, discarded and/or any inoperative durable items,

PARCEL:

A continuous quantity of land in the possession of or owned by, or recorded as the property of, the same person or persons.

PATIO:

An open recreational area or structure, without roof, constructed no higher than six (6) inches from the ground level and resting directly on the ground. It may be attached to or detached from the principal building and may be constructed using wood, masonry, pavement, stone, or other material suitable for that purpose.

PARKING SPACE:

An unobstructed space or area other than a street or alley that is permanently reserved and maintained for the parking of one (1) motor vehicle.

PERMANENT FOUNDATION:

A support for a building or structure, reaching below the frost line, consisting of a full poured concrete or masonry foundation or any other type which is permitted under the design standards of the Pennsylvania Uniform Construction Code, on which the building or structure is anchored and is intended to remain indefinitely.

PERSONAL CARE HOME

A facility, as defined under current State licensing requirements, and licensed as a such, in which food, shelter and personal assistance or supervision are provided for a period exceeding twenty-four consecutive hours for more than three (3) adults who are not relatives of the operator of the facility and who require assistance or supervision in such matters as dressing, bathing, diet or medication prescribed for self administration but who do not require hospitalization or care in a skilled nursing or intermediate care facility.

PERSONAL SERVICES:

Any enterprise conducted for gain, which primarily offers services to the general public, such as shoe repair, valet service, watch repairing, services of an electrician, services of a plumber, services of a carpenter, repair appliance services, barber shops, beauty parlors, and related activities.

PLACE OF WORSHIP:

A building used for religious services, including churches, synagogues, mosques and similar edifices.

PLANNING COMMISSION:

The Planning Commission of Lehman Township.

PRINCIPAL USE:

The main use of land or structures, as distinguished from a secondary or accessory use.

PRIVATE:

Something owned, operated and supported by private individuals or a corporation, rather than by government, and not available for public use.

PUBLIC:

Something owned, operated and supported by the Community, residents or other entity, governmental or private, for the use and benefit of the general public.

PUBLIC HEARING:

A formal meeting held pursuant to public notice by the Lehman Township Board of Supervisors, Planning Commission or Zoning Hearing Board, which is intended to inform and obtain public comment prior to taking action on a particular subject matter or development.

PUBLIC MEETING:

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

PUBLIC NOTICE:

Notice published once each week for two (2) successive weeks in a newspaper of general circulation in the municipality. Such notice shall state the time and place of the hearing and the particular nature of the matter to be considered at the hearing. The first publication shall not be more than thirty (30) days and the second publication shall not be less than seven (7) days from the date of the hearing.

PUBLIC USES:

Public parks and administrative, cultural and service buildings, excluding public land or buildings primarily devoted to the storage and maintenance of equipment or material.

PUBLIC UTILITY:

A private corporation or municipal authority with an exclusive franchise for providing a public service that operates under regulations of Federal, State and/or local government.

PUBLIC UTILITIES FACILITIES:(ESSENTIAL)

Telephone, electric and cable television lines, poles, equipment and structures; water or gas pipes, mains, valves, or structures, pumping stations; telephone exchanges, and all other facilities, equipment and structures necessary for conducting a service by a public utility under the jurisdiction of the Pennsylvania Public Utility Commission, in accordance with Section 619 of the Pennsylvania Municipalities Planning Code, Act 247, as amended.

PUBLIC UTILITY TRANSMISSION TOWER:

A structure, owned and operated by a public utility electric company regulated by the Pennsylvania Public Utility Commission, designed and used to support overhead electricity transmission lines.

RECREATIONAL FACILITIES, COMMERCIAL:

Recreational facilities operated as a business and open to the public for a fee.

RECREATIONAL FACILITIES, PRIVATE:

Recreational facilities other than commercial or public, not operated for a profit, and only open to its members and their guests.

RECREATIONAL FACILITIES, PUBLIC:

Recreational facilities operated as a nonprofit enterprise by a governmental entity or a nonprofit organization, and open to the general public.

REPORT:

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

RESTAURANT:

A business establishment whose principal business is the selling of unpackaged food to the customer in a ready-to-consume state, in individual servings, or in indispensable containers, and where the customer consumes these foods while seated at tables or counters located within the building.

RESTAURANT, FAST FOOD:

An establishment which offers quick food service, including drive-through service, which is accomplished through a limited menu of items already prepared or prepared, fried, or grilled quickly. Orders are not generally taken at the customer's table and food is generally served in disposable wrapping or containers.

RIGHT-OF-WAY:

A strip of land occupied or intended to be occupied by a street, crosswalk, railroad, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer line, or other special use.

RIPARIAN LAND:

Land that is traversed or bounded by a natural watercourse.

ROOMING UNIT:

A room or rooms, in a Boarding House and/or Rooming House forming a single habitable unit intended for living quarters but lacking separate bathroom, toilet and sanitary facilities and facilities for cooking and sleeping for exclusive use by occupant or occupants of the rooming unit.

SATELLITE DISH ANTENNA:

A device incorporating a reflective surface that is solid, open mesh, or bar configured and is in the shape of a shallow dish, cone, horn, or cornucopia. Such device shall be used to transmit and/or receive radio or electromagnetic waves between terrestrial and orbital based uses. This definition is meant to include but not be limited to what are commonly referred to as satellite earth stations, TVROs (television reception only satellite dish antennas), and satellite microwave antennas. A satellite dish antenna that does not exceed three (3) feet in diameter and is attached to a building shall be exempt from securing zoning approval.

SEWAGE DISPOSAL, CENTRALIZED:

A sanitary sewage collection system, approved by the Pennsylvania Department of Environmental Protection, in which sewage is carried from individual lots by a system of pipes to a central treatment and disposal facility.

SEWAGE DISPOSAL, ON-LOT:

Any facility designed to biochemically treat sewage within the boundaries of an individual lot in accordance with the applicable rules and regulations of the Pennsylvania Department of Environmental Protection.

SEXUALLY ORIENTED BUSINESS:

Sexually Oriented Bookstore: An establishment that has as a substantial portion of its stock-in-trade and offers for sale, for any form of consideration, any one or more of the following: (1) books, magazines, periodicals, or other printed matter, or photographs, films, motion pictures, video cassettes, slides, or other visual representations that are characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas; or (2) instruments, devices, or paraphernalia that are designed for use in connection with specified sexual activities.

Sexually Oriented Entertainment: A nightclub, bar, restaurant, club or similar establishment that regularly features live performances that are characterized by the exposure of specified anatomical areas or by specified sexual activities, or films, motion pictures, video cassettes, slides, or other photographic reproductions in which a substantial portion of the total presentation time is devoted to the showing of material that is characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas.

Massage Parlor: An establishment where, for any form of consideration, massage, alcohol rub, fomentation, electric or magnetic treatment, or similar treatment or manipulation of the human body is administered, unless such treatment or manipulation is administered by a medical practitioner, chiropractor, acupuncturist, physical therapist, or similar professional person licensed by the state. This definition does not include an athletic club, health club, school, gymnasium, reducing salon, spa, or similar establishment where massage or similar manipulation of the human body is offered as an incidental or accessory service.

Specified Anatomical Areas: Specified anatomical areas, as used above within the definitions of “Adult Bookstore” and “Adult Entertainment” means and includes any of the following: (1) less than completely and opaquely covered human genitals, pubic region, buttocks, anus, or female breasts below a point immediately above the top of the areolae; or (2) human male genitals in a discernibly turgid state, even if completely and opaquely covered.

Specified Sexual Activities: Specified sexual activities as used above within the definitions of “Adult Bookstore” and “Adult Entertainment” means and includes any of the following: (1) the fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts; (2) sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy; (3) masturbation, actual or simulated; or (4) excretory functions as part of or in connection with any of the activities set forth as an "Adult Use".

SCHOOL:

A facility that provides a curriculum of elementary and secondary academic instruction, including kindergartens, elementary schools, junior high schools, and high schools that are licensed by the State as such.

SCREENING:

The method by which a view of one site from another adjacent site is shielded, concealed, or hidden. Screening techniques include fences, walls, hedges, berms, or other features.

SEATING CAPACITY:

The actual seating capacity of an area based upon the number of seats or one seat per 18 inches of bench or pew length. For other areas where seats are not fixed, the seating capacity shall be determined as indicated by the most recent standards under the BOCA Code or Pennsylvania Uniform Construction Code, based upon the more restrictive standards.

SELF-SERVICE STORAGE FACILITY:

A building or group of buildings in a controlled access and fenced compound that contains varying sizes of individual compartmentalized, and controlled access stalls or lockers which are leased to individuals for the storage of the individual’s property, possessions or wares.

SETBACK:

The required minimum horizontal distance between the building line and the related front, side or rear property line.

SIGN:

A structure or device designed or intended to convey information to the public in written or pictorial form.

SIGN AREA:

The entire area within a continuous perimeter, enclosing the extreme limits of sign display, including any frame or border. Curved, spherical, or any other shaped sign face shall be computed on the basis of actual surface area. The copy of signs composed of individual letters, numerals, or other devices shall be the sum of the area of the smallest rectangle or other geometric figure encompassing each of said letter or devices. The calculation for a double-faced sign shall be the area of one face only. Double-faced signs shall be so constructed that the perimeter of both faces coincide and are parallel and not more than 24 inches apart.

SITE PLAN:

A plan prepared to scale, showing accurately and with complete dimensions, the boundaries of a site and the location of all buildings, structures, uses, and features proposed for a specific parcel of land.

SPECIAL EXCEPTION:

A use which may only be permitted in a particular zoning district, by special approval, granted by the Zoning Hearing Board in accordance with the applicable provisions of this Ordinance.

SPECIMEN TREE:

A unique, rare, or otherwise specifically selected tree or plant considered worthy of conservation by the municipality, because of its species, size, age, shape, form historical importance, or any other significant characteristics, including listing as a Species of Special Concern by the Commonwealth of Pennsylvania. All healthy trees over 20 inches dbh are considered specimen.

SEWAGE TREATMENT PLANT:

A sanitary sewage collection and treatment system meeting the requirements of the Pennsylvania Department of Environmental Protection in which sewage is carried from individual lots or dwelling units by a system of pipes to a central treatment and disposal facility or system which may be publicly or privately owned and operated, and which uses mechanical, biological and chemical processes to treat and dispose of domestic sewage in accord with PA DEP Rules and Regulations involving an effluent discharge to

surface waters.

SOIL EROSION AND SEDIMENTATION CONTROL PLAN:

A plan that indicates necessary land treatment measures, as approved by the Luzerne Conversation District, designed to effectively minimize soil erosion and sedimentation.

STEEP SLOPES:

Areas of land where the grade is 15 percent or greater. Steep slopes are divided into two categories:

- A. Precautionary slopes are those areas of land where the grade is 15 to 25 percent.
- B. Prohibitive slopes are those areas of land where the grade is greater than 25 percent.

Slope shall be measured as the change in elevation over the horizontal distance between consecutive contour lines. Slope shall be measured over three 2- foot contour intervals (six cumulative vertical feet of slope). All slope measurements shall be determined by a topographic survey signed and sealed by a registered surveyor or engineer licensed to practice by the Commonwealth of Pennsylvania.

SOLID WASTE OR WASTE:

Any garbage, refuse, industrial, lunchroom or office waste or other material including solid, liquid, semisolid or contained in gaseous material, resulting from the operation of residential, municipal, commercial or institutional establishments and from community activities, excluding "Hazardous Substances" as so defined by this Ordinance and "Hazardous Waste", as so defined by the Pennsylvania Department of Environmental Protection, pursuant to Chapter 271.1, under the Solid Waste Management Act, as amended.

SOLID WASTE FACILITY:

Any facility whose operations include the following as defined and regulated by the Pennsylvania Department of Environmental Protection: landfills, transfer facilities, refuse vehicle staging areas, resource recovery facilities, waste disposal and processing facilities, and recycling facilities.

STORY:

That portion of a building included between the surface of any floor and the surface of the floor next above it, or if there is no floor above it, the space between such floor and the ceiling above. A basement shall be counted as a story if its ceiling equals or exceeds five (5) feet of the finished ground surface adjoining the exterior walls of such story.

STREET:

A public (dedicated) or private (undedicated) right-of-way, whether or not improved, intended for use by vehicular and pedestrian traffic.

STRUCTURE:

Any man-made object, the use of which requires an ascertainable stationary location on land, whether or not it is affixed to the land.

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

- A. Subdivision; Major: Any subdivision which does not qualify or classify as a minor subdivision.
- B. Subdivision; Minor: A subdivision of a parcel of land into not more than three (3) lots, which, has access, direct or indirect, to an existing public street or road and does not require any expenditures for the extension of any street or the extension or creation of any public improvements, does not adversely affect the remainder of the parcel or adjoining property and does not conflict with the Comprehensive Plan. Any proposed subdivision of a lot of record, which resulted from a minor subdivision shall be classified as a major subdivision, when the cumulative number of lots, from the original lot of record and/or any resulting lot, exceed three (3) lots within five (5) years from date of its approval under a minor subdivision classification. Information stating the above requirement shall be included upon all deeds for lots created under a minor subdivision

TIMBER HARVESTING: (SEE ARTICLE 9, SUPPLEMENTAL REGULATIONS)

The cutting and removal of trees from their growing site, including the attendant operation of cutting and skidding machinery, for commercial purposes which does not involve any land development.

TOPSOIL:

Natural and friable loam containing sufficient nitrogen, phosphorus and potassium to support plant growth and extending in depth to the extent of penetration of feeder roots of the prevailing native grasses.

TOWER: (Also See Communications Tower)

A structure situated on a nonresidential site or lot which is intended for transmitting or receiving television, radio, or telephone communications.

TOWNHOUSE:

A single structure consisting of not less than three (3) or more than six (6) dwelling units. Each dwelling unit shall have direct ground level access to the outdoors and connected to other dwelling units by one (1) or more party walls with no opening or connecting interior access between units. No dwelling units shall be located over or below another unit.

TOWNSHIP:

Township of Lehman, Luzerne County, Pennsylvania.

TRACT AREA, ADJUSTED:

The gross tract area minus the constrained land.

TRACT AREA, GROSS:

The total amount of land contained within the limits of the legally described property lines bounding the tract.

TRANSFER STATION:

A facility which receives and temporarily stores solid waste at a location other than the generation site, which facilitates the bulk transfer of accumulated solid waste to another facility or site for further processing and/or disposal of said solid waste. Said use shall be classified and regulated as a " Solid Waste Facility".

TRUCKING FACILITY:

A structure, building and/or land consisting of a storage area, management and dispatch office and loading and unloading facilities connected with receipt or delivery of freight shipped by truck.

TURBINE HEIGHT:

The distance measured from the surface of the tower's foundation to the highest point of the turbine rotor plane at its furthest vertical extension.

VARIANCE:

A waiver granted by the Zoning Hearing Board from the terms and requirements of this Ordinance in accordance with Section 1609 of this Ordinance.

WAREHOUSE:

A building used primarily for storage of goods and material.

WAREHOUSING AND DISTRIBUTION:

A use engaged in storage, wholesale and distribution of manufactured products, supplies and equipment, excluding the bulk storage of material that are flammable, explosive, hazardous or commonly recognized as offensive.

WATER SUPPLY SYSTEM, CENTRALIZED:

A public or privately owned system, under the jurisdiction of the Pennsylvania Public Utility Commission, designed to transmit potable water from a common source to users, and in compliance with the governing standards of all applicable State agencies. Any water supply system not deemed as a centralized water supply system shall be deemed to be an on-site water supply system.

WATER TABLE:

The upper surface of groundwater, or that level below which the soil is seasonally saturated with water.

WATERCOURSE:

Any natural or man-made named bodies of water or tributaries.

WETLANDS:

Areas that are inundated and saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, including swamps, marshes, bogs, and similar areas. Any area meeting the official wetland definition of the U.S. Army Corps of Engineers or the Pennsylvania Department of Environmental Protection, as amended, shall be considered a wetland for the purposes of this Ordinance. In the event the definition of wetland accepted by the U.S. Army Corps of Engineers conflicts with the definition of a wetland accepted by the Pennsylvania Department of Environmental Protection, the more restrictive definition shall apply.

WIND ENERGY CONVERSION SYSTEM (“WECS”):

A machine designed for the purpose of converting wind energy into electrical energy. (Commonly known as “wind turbine” or “windmill”). The term WECS shall be used interchangeably with the terms “wind turbine” or “windmill,” with said terms having the same meaning as a WIND ENERGY CONVERSION SYSTEM (“WECS”)

WECS, COMMERCIAL:

A WECS that is the prime use on a parcel of land and supplies electrical power for off-site use.

WIND ENERGY CONVERSION SYSTEM (SMALL) - ("Small WECS"):

A wind energy conversion system that is incidental and subordinate to another use on the same parcel and supplies electrical power solely for on-site use, which is intended to primarily reduce consumption of utility power at that location and not for resale.

WIND ENERGY FACILITY:

A commercial electric generating facility, whose main purpose is to supply electricity to off-site customer(s), consisting of one or more Commercial WECS, and other accessory structures and buildings, including substations, meteorological towers, electrical infrastructure, transmission lines and other appurtenant structures and facilities.

WOODLANDS:

A tree mass or plant community in which tree species are dominant or co-dominant and the branches of the trees form a complete, or nearly complete, aerial canopy. Any area, grove, or stand of mature or largely mature trees (larger than 6 inches dbh) covering an area of one-quarter acre or more, or consisting of ten (10) individual trees larger than 6 inches dbh, shall be considered a woodland. The extent of any woodland plant community or any part thereof shall be measured from the outer-most drip line of all the trees in the plant community.

WOODLAND DISTURBANCE:

Any activity that (1) alters the existing structure of a woodland or hedgerow, including the cutting or removal of canopy trees, subcanopy trees, understory shrubs and vines, and herbaceous woodland floor species; (2) constitutes a land disturbance within a woodland or hedgerow. Woodland disturbance does not include the selective cutting or removal of invasive plant species. (See INVASIVE PLANT SPECIES)

YARD:

An open space that lies between the principal building and the nearest lot line. Such yard is unoccupied and unobstructed from the ground up except for accessory buildings or projections which are expressly permitted by this Ordinance.

YARD, FRONT:

A space extending the full width of the lot between the principal building and the front lot line and measured perpendicular to the building at the closest point to the front lot line.

YARD, REAR:

A space extending the full width of the lot between the principal building and the rear lot line and measured perpendicular to the building at the closest point to the rear lot line.

YARD, SIDE:

A space extending from the front yard to the rear yard between the principal building and the side lot line measured perpendicular from the side lot line to the closest point of the principal building.

ZONING DISTRICT:

A portion of Lehman Township illustrated upon the Official Zoning Map, within which certain uniform regulations and requirements apply under the provisions of the Zoning Ordinance.

ZONING HEARING BOARD:

The Zoning Hearing Board of Lehman Township, Luzerne County, Pennsylvania.

ZONING MAP:

The official map which is part of the Zoning Ordinance and indicates and delineates the zoning districts of Lehman Township, Luzerne County, Pennsylvania.

ZONING OFFICER:

The administrative officer appointed by the Board of Supervisors to administer and enforce the Zoning Ordinance of Lehman Township, Luzerne County.

ARTICLE 3
GENERAL REGULATIONS

SECTION 301 **COMPLIANCE REQUIRED**

No structure or land shall be used or occupied, and no structure or part of a structure shall be erected, demolished, altered converted or moved, unless in compliance with all applicable provisions and regulations of this Ordinance

SECTION 302 **INTERPRETATION AND CONFLICT**

In interpreting and applying the provisions of this Ordinance, they shall be held to the minimum requirements for the protection and promotion of the public health, safety, convenience, comfort, morals, and general welfare of the residents of Lehman Township. In the event of any conflict in the application of this Ordinance with other applicable public or private provisions, the following shall apply:

A. **PUBLIC PROVISIONS**

The regulations of this Ordinance are not intended to interfere with or abrogate or annul any other ordinance, rules or regulations previously adopted or previously issued by Lehman Township which are not in conflict with any provisions of this Ordinance. Where this Ordinance imposes a greater restriction upon the use of land, structure or building than any other previously adopted ordinance, rules, or regulations of Lehman Township, the provisions of this Ordinance shall apply.

B. **PRIVATE PROVISIONS**

The regulations of this Ordinance are not intended to interfere with or abrogate or annul any easement, covenant or other form of private agreement or restriction, provided that where the provisions of this Ordinance impose a greater restriction, the requirements of this Ordinance shall govern. Where the provisions of any easement, covenant or other form of private agreement or restriction imposes obligations, duties and/or requirements which are more restrictive and/or impose higher standards than the requirements of this Ordinance, and such private provisions are not inconsistent with the requirements of this Ordinance, then such private provisions shall be operative and supplemental to the requirements of this Ordinance.

SECTION 303 **ATTACHED ACCESSORY STRUCTURES**

Accessory structures which are attached to a principal structure shall be considered a part of the principal structure and shall comply with the same yard and lot requirements applicable to the principal structure.

SECTION 304 **UNATTACHED ACCESSORY STRUCTURES**

304.1 **NONRESIDENTIAL**

When the principal use or structure is nonresidential, an unattached accessory structure shall comply with the front yard setback requirements applicable to the principal structure

or use for the zoning district in which it is located and shall not be less than fifteen (15) feet from any side yard lot line or rear yard lot line.

304.2 RESIDENTIAL

When the principal structure is residential, unattached accessory structures shall only be erected within the rear yard or side yard areas of the lot subject to the following requirements:

- (A) The maximum height shall not exceed twenty (20) feet.
- (B) An accessory structure shall not be located less than
 - Ten (10) feet from a side lot line or the rear lot line for accessory structures that have floor area not in excess of 200 square feet.
 - Fifteen (15) feet from a side lot line or the rear lot line for accessory structures that have floor area which exceed of 200 square feet.
 - Excluding A-1 and C-1 zoning districts, an accessory residential structure shall not exceed 750 square feet of floor area.

SECTION 305 CORNER LOT RESTRICTION

On a corner lot there shall be provided on each side thereof, adjacent to a street, a yard setback equal in depth to the required front yard setback of the prevailing zoning district in which the corner lot is located.

SECTION 306 TYPES OF RESIDENTIAL ACCESSORY STRUCTURES

For residential lots, permitted accessory structures shall include noncommercial greenhouses, tool or lawn sheds, private garages or carports, private noncommercial swimming pools, gazebos and noncommercial satellite antenna dishes.

SECTION 307 NONCOMMERCIAL SATELLITE DISH ANTENNA

A noncommercial satellite dish antenna, as so defined in this Ordinance, shall be deemed an accessory use, permitted by right in all zoning districts. Granting approval for the establishment and/or construction of a satellite dish antenna shall not restrict or imply to restrict the use or development of another zoning lot. The height of a noncommercial satellite dish antenna, including any supporting device, measured from ground level to its highest point of elevation, shall not exceed the maximum height restriction of the zoning district in which it is located.

SECTION 308 RESIDENTIAL ACCESSORY STRUCTURES IN A NONRESIDENTIAL ZONE

In cases when a residential structure is a nonconforming use, located in a nonresidential zone, the proposed erection of an accessory residential structure shall be deemed exempt from classification as an expansion of a nonconforming use, but shall be subject to the regulations contained under Section 304.2 of this Ordinance.

SECTION 309 PRIVATE NONCOMMERCIAL SWIMMING POOLS

All swimming pools having a surface area of thirty (30) square feet or greater and capable of containing water to a depth, at any point, of two (2) feet or greater, shall be governed by in accordance with the following subsections:

309.1 LOCATION AND SETBACK REQUIREMENTS

Swimming pools shall be located in either the rear yard or a side yard of the property on which it is an accessory use. The swimming pool and any accessory structures thereto, shall have a minimum setback of ten (10) feet from any rear or side yard lot line.

309.2 IN-GROUND POOLS

The pool or the entire property on which the pool is located, shall be enclosed with a permanent fence not less than four (4) feet in height, which includes a gate secured with a lock. The required fencing for an in ground pool must be installed upon the completion of the excavation work and prior filling said pool.

309.3 ABOVE GROUND POOLS

An above ground pool shall be enclosed with a permanent fence not less than four (4) feet in height which includes a gate secured with a lock in accordance with the above requirements of Section 309.2 or in lieu of a fence, a barrier not less than four (4) feet in height. Said barrier may include the pool wall and any extension thereto which equals or exceeds a height of four (4) feet. Access into a pool which includes a deck shall be secured by a gate with a lock. Pools without access from a deck shall include retractable steps or any similar device which prohibits uncontrolled access into the pool when not in use. Shrubbery is not to be considered as a barrier. Decks which are attached to the pool shall not project into any required yard setback for the pool.

SECTION 310 LOTS DIVIDED BY ZONING BOUNDARIES

If a zoning district boundary line divides a lot held in single and separate ownership prior to the effective date of this Ordinance, placing eighty-five (85%) percent or more of the lot area in a particular zoning district, the location of such district boundary line may be construed to include the remaining fifteen (15%) percent or less of the lot so divided, subject to the lot of record having an area in excess of two (2) acres.

SECTION 311 PROJECTIONS INTO REQUIRED YARDS

The following projections shall be permitted into required yards and shall not be considered in the determination of yard setback requirements or building coverage:

- (A) Terraces or Patios: provided that such terraces or patios are located in the rear yard or sideyard, are not under roof, without walls or other form of enclosure and are not closer than five (5) feet to any adjacent lot line.

- (B) Projecting Architectural Features: such as bay windows, cornices, eaves, fireplaces, chimneys, window sills, or other similar architectural features provided that any of the aforementioned features do not extend more than two (2) feet into any required setback.
- (C) Porches and Decks: provided such porches or decks are located in the rear yard or sideyard, and that such does not exceed four and one-half (4^{1/2}) feet in depth as extended from the structure.
- (D) Handicapped Ramps: may be constructed without meeting any applicable front and/or rear yard setback requirements in any Zoning District, but shall have a minimum side yard setback of not less than five (5) feet.

SECTION 312 EXCEPTIONS TO HEIGHT LIMITATIONS

The height limitations of this Ordinance shall not apply to church spires, belfries, cupolas, domes, chimneys, flagpoles, water towers, skylights; or to any accessory mechanical appurtenances usually located above the roof level.

SECTION 313 REQUIRED ACCESS

Every building or structure hereafter erected shall have access to or be located upon a lot adjacent to a public or private street.

SECTION 314 LAND DEVELOPMENT APPROVAL FOR CERTAIN USES

In addition to zoning approval, the following uses are classified as a "land development," requiring approval under the applicable provisions of the Lehman Township Subdivision and Land Development Ordinance:

LAND DEVELOPMENT:

The improvement of one lot or two (2) or more contiguous lots, tracts or parcels of land for any purpose involving:

- (A) A group of two or more residential or nonresidential buildings, whether proposed initially or cumulatively, or a single nonresidential building on a lot or lots regardless of the number of occupants or tenure.
- (B) Any nonresidential use of land, with or without structures, which encompasses five (5) or more acres of land, excluding agricultural use of land.
- (C) the division or allocation of land or space, whether initially or cumulatively, between or among two (2) or more existing or prospective occupants by means of, or for the purpose of streets, common areas, leaseholds, condominiums, building groups or other features.
- (D) the conversion of an existing single-family detached dwelling or single family semidetached dwelling into more than three (3) residential units.

Any conversion, described above, which results in not more than three (3) residential units shall be deemed as a land development if the units are intended to be a condominium.

- (E) the development of a mobile home park or the expansion of an existing mobile home park within the context of the definition of said term as contained within this Ordinance.
- (F) a single residential structure containing five (5) or more residential units.

A development of a parcel of land which contains not more than three (3) detached single family residential structures, whether developed initially or cumulatively shall be classified as a minor land development; all other uses classified as a land development shall be deemed to be a major land development.

SECTION 315 VISIBILITY AT INTERSECTIONS AND PRIVATE DRIVEWAYS

315.1 INTERSECTION OF STREETS

On any corner lot no visual obstruction between two and one-half (2^{1/2}) feet and eight (8) feet in height, excluding street signs, utility poles or traffic signs, shall be erected or maintained on any corner lot within the triangle formed by the intersecting property lines of the corner lot and a line projected between points on each of those adjacent property lines, twenty (20) feet from their intersection.

315.2 PRIVATE DRIVEWAYS

No visual obstruction between two and one-half (2^{1/2}) feet and eight (8) feet in height, shall be erected or maintained within the triangle formed between the intersection of centerlines of a street right-of-way line and a depth of ten (10) feet along the centerline of the street right-of-way and a depth of ten (10) feet along the centerline of a private driveway.

SECTION 316 FENCES AND WALLS

The posts and/or structural supports of a fence shall be located within the interior yard space to be enclosed.

316.1 RESIDENTIAL

Fences and walls to be constructed within a residential zoning district or upon a lot in any other type of zoning district which contains a residential property, shall be permitted according to the following subsections:

A. FRONT YARD

The maximum height of any fence or wall in a front yard shall not exceed four (4) feet in height above the adjacent ground level.

B. SIDE AND REAR YARDS

The maximum height of any fence or wall located in a side yard or rear yard shall not exceed six (6) feet in height.

C. MATERIALS

All fences shall be constructed with materials recognized by the fencing industry and designed to provide a permanent enclosure. No barbed wire or other potentially injurious material shall be contained upon the fence or as part of the material to construct the fence.

316.2 NONRESIDENTIAL

Fences to be constructed within any commercial and/or industrial zoning district shall not exceed eight (8) feet in height above the adjacent ground level. Fences to be constructed within any industrial zoning district shall not exceed ten (10) feet in height above the adjacent ground level.

316.3 EXEMPTIONS

The provisions of this Section shall not be applied to prevent the construction of a chain link in excess of ten (10) feet in height, designed as an enclosure to a public park, a public playground or similar outdoor recreational facility.

SECTION 317 PUBLIC UTILITIES

With the exception of storage yards, the provisions and regulations of this Ordinance shall not apply to any existing or proposed building or extension thereof, used or to be used by a public utility corporation deemed necessary for the convenience or welfare of the public in accordance with Section 619 of the Pennsylvania Municipalities Planning Code, Act 247, as amended.

SECTION 318 SEWAGE DISPOSAL

The provision of sewage service to any proposed use and/or development of property shall be consistent with the Township's Act 537 Sewage Facility Plan. Any use or development of property which proposes to utilize on-lot sewage disposal shall secure approval from the Township's Sewage Enforcement Officer in accordance with the applicable governing standards of the Pennsylvania Department of Environmental Protection prior to the issuance of a zoning permit.

In any residential development undertaken as a conservation subdivision, initial or alternate locations for absorption fields for individual on-lot systems are permitted in the open space, provided they are properly marked with survey monuments and easements are established for the area they occupy. The individual homeowner served by the system is responsible for maintenance, not the Home Owners Association.

SECTION 319 CERTAIN EXEMPTIONS FOR SETBACK REQUIREMENTS

Any structural portion of a building, such as a deck, patio, porch or similar feature which is need of repair to the point of replacement shall be exempt from complying with the applicable setback requirements when all of the following conditions exist:

- A. The use of the building represents a use permitted by right in the district in which it is located.
- B. There are no outstanding zoning or building code violations against the owner of the property.
- C. The structural replacement shall be the exact same location and structural replacement shall be the same size and height, or less, than that which is being replaced.
- D. A photograph of the subject property, taken prior to the start of work, must be submitted to the Zoning Officer with a completed zoning permit application, along with any other information deemed necessary by the Zoning Officer to process the application.

SECTION 320 MOBILE HOMES - PERMANENT FOUNDATIONS

A mobile home shall be constructed and anchored to a permanent foundation. Under such conditions said mobile home shall be deemed to be a single family residence.

SECTION 321 REPLACEMENT OF MOBILE HOMES

The removal of a mobile home upon a property with the intent to replace it with another mobile home may be permitted in accordance with the following standards:

- 1. The property owner shall provide the Zoning Officer with written notice of his intent to replace the structure and the date on which the current mobile home will be removed from the lot.
- 2. The placement of the new mobile home upon the lot shall be in conformance with all applicable setback requirements and area requirements for the zoning district in which it is located.
- 3. A new mobile home shall be located upon the lot in conformance with Section 320 and shall be connected with all utilities, including sewage, and ready for occupancy within one hundred and eighty (180) days from the date on previous mobile home was removed.

SECTION 322 TEMPORARY STRUCTURE AND/OR TEMPORARY USE

A temporary structure and/or a temporary use may be allowed in all Zoning Districts subject to the following requirements:

- a. A temporary structure and/or use shall meet all applicable setback requirements for the Zoning District in which it is to be located.

- b. The temporary structure shall be located upon a property for a period not to exceed twelve (12) months from the date on which the Zoning Permit was approved by the Zoning Officer. The twelve (12) month time limitation for a temporary structure and/or use shall be cumulative in nature. Any intermittent cessation and subsequent resumption of a temporary structure and/or use shall be included within the twelve (12) month time limitation from the date on which approval was originally issued.
- c. The use of a temporary structure shall be directly related to the principal use of the property and the principal use of the property must be a use permitted by right in the zoning district in which it is located.
- d. Trailers placed upon a property as a field office during the construction activities for a permanent principal use shall be exempt.

The use of a temporary structure as a residence shall be permitted when the following conditions apply:

- The property on which the temporary structure is to be located represents the same property on which the applicant has secured zoning approval to construct a permanent dwelling.
 - The temporary structure has service to and is connected to all required utilities, including but not necessarily limited to electrical, water and sewage and is utilized within the context of a “Dwelling Unit” as defined in Article 2 of this Ordinance.
 - Upon the cessation of twelve (12) months from the date on which the Zoning Permit was approved by the Zoning Officer, the temporary structure shall be removed from the site unless the applicant submits and receives approval for a land development application and plan.
- e. The size of the gross floor area of a temporary structure shall not exceed that of the principal structure.
 - f. Required off-street parking and/or loading shall be provided for the use within a temporary structure in accordance with the applicable provisions contained in Article 12, Off-Street Parking and Loading.
 - g. Upon receipt of approval for a temporary structure and/or use, the twelve (12) month limitation may be extended up to an additional twelve (12) months as a variance subject to approval by the Zoning Hearing Board.

SECTION 323 HIGHWAY OCCUPANCY PERMIT

Zoning approval for any proposed use and/or development of a property, which includes the construction and/or relocation of a driveway onto a State Legislative Route, a County road or a Township road shall be conditioned upon the applicant securing a Highway Occupancy Permit from the applicable governing body and/or agency.

SECTION 324 SOIL EROSION AND SEDIMENTATION CONTROL PLAN

In accordance with the requirements of the Pennsylvania Department of Environmental Protection, any proposed development having a cumulative land disturbance equal to or in excess of five thousand (5,000) square feet shall be required to prepare and implement a Soil Erosion and Sedimentation Control Plan, in accordance with the most recent addition of the Department of Environmental Protection Erosion and Sedimentation Control Manual.

For stormwater discharges from construction activities, for any proposed development that will disturb between one (1) and up to five (5) acres of land over the life of the project, and has a point source discharge to surface waters shall be required to secure a National Pollutant Discharge Elimination System Permit (NPDES) from the Luzerne County Conservation District. No zoning permit for development shall be issued by the Township until written notification is received from the Luzerne County Conservation District verifying compliance in securing the NPDES Permit.

SECTION 325 OUTDOOR FUEL BURNING FURNACES

An outdoor fuel burning furnace shall be deemed to be an accessory structure permitted as a special exception use in the C-1 District and the A-1 District, thereby requiring approval from the Zoning Hearing Board and subject to the supplemental standards as set forth in Article 9 of this Ordinance.

SECTION 326 USES NOT ADDRESSED WITHIN ORDINANCE

Whenever, in any district established under this Ordinance, a use is neither specifically permitted nor denied and an application is made by a landowner to the Zoning Officer for such use, the Zoning Officer shall refer the application to the Zoning Hearing Board to hear and decide such request as a special exception. The Board shall have the authority to permit the use or deny the use in accordance with the standards governing special exception applications. The proposed use may be permitted only if it is determined to be similar to and compatible with permitted uses in the district and in no way is in conflict with the general purposes and intent of this Ordinance. The burden of proof shall be upon the applicant to demonstrate that the proposed use would meet the standards and criteria for a special exception as contained in Section 1610.2 of this Ordinance and would not be detrimental to the public health, safety and welfare and/or environmental features and characteristics of the site and/or surrounding areas.

SECTION 327 CONFLICTING REGULATIONS

In the event that any provisions within this Ordinance are found to be in conflict with another provision of this Ordinance, and/or any other ordinance, law, or regulation of the Township, State or United States Government, the most restrictive shall apply.

SECTION 328 ABANDONED VEHICLES

- A. It shall be unlawful for any person to allow, keep, permit or otherwise continue the placement of an abandoned vehicle, as defined in Article 2, upon any public or private property within Lehman Township for a period of thirty (30) days or

greater. Any abandoned vehicle on a public road or street may be removed by the Lehman Township Police Department after 48 hours. If the vehicle constitutes a safety hazard, the Police may remove the abandoned vehicle immediately.

- B. Any person in violation of the above provisions shall be subject to the enforcement procedures as set forth in Section 1404 of the Zoning Ordinance.
- C. Any person found guilty under the enforcement remedies set forth in Section 1404 of the Zoning Ordinance, who remains in violation shall be subject to the removal of the abandoned vehicle by the Township. In addition to any other fines, the owner shall be liable for the cost of removing the vehicle by a Vehicle Salvor licensed with the Bureau of Motor Vehicles of the Pennsylvania Department of Transportation.
- D. Provisions of this Section shall not apply to the following:
- A vehicle in a garage or similar enclosed structure.
 - A vehicle on the premises of a business enterprise when necessary to the operation of such business.
 - A vehicle in an appropriate storage facility, unless the storage constitutes, or contributes to a safety, health or fire hazard.

ARTICLE 4
ZONING MAP AND ZONING DISTRICTS

SECTION 401 OFFICIAL ZONING MAP

Lehman Township is hereby divided into zoning districts, as shown on the Official Zoning Map, which together with all explanatory matter thereon, is hereby adopted by reference and declared to be part of this Ordinance, together with all future notations, references and amendments.

SECTION 402 CHANGES TO OFFICIAL ZONING MAP

Any changes to the location of zoning district boundaries or other matters portrayed upon the Official Zoning Map shall be undertaken in accordance with the applicable provisions contained within Article 15 of this Ordinance and the Pennsylvania Municipalities Planning Code, Act 247, as amended. Such changes shall be provided upon the Official Zoning Map promptly after the enactment of the subject amendment by the Lehman Township Board of Supervisors.

SECTION 403 INTERPRETATION OF BOUNDARIES

For the interpretation of zoning district boundaries, the following subsections shall apply if or when a determination is not made by the Zoning Officer.

403.1 ZONING HEARING BOARD

If uncertainty exists as to the boundary of any zoning district shown upon the Official Zoning Map, the Zoning Hearing Board shall determine the location of such boundary according to the guidelines set forth in Section 403.2.

403.2 GUIDELINES

- (A) Zoning district boundary lines are intended to follow or parallel the center line of streets, streams and railroads; and the lot or property lines as they exist on a recorded deed or plan at the time of adoption of this Ordinance, unless such zoning district boundary lines are fixed by dimensions as shown on the Official Zoning Map.
- (B) Where a zoning district boundary is not fixed by dimensions and where it approximately follows lot lines, and does not scale more than ten (10) feet therefrom, such lot lines shall be construed to be such boundaries unless specifically shown otherwise.
- (C) In accordance with Section 310 of this Ordinance, if a Zoning District boundary line divides a lot held in single and separate ownership prior to the effective date of this Ordinance, placing eighty-five (85%) percent or more of the lot area in a particular Zoning District, the location of such district boundary line may be construed to include the remaining fifteen (15%) percent or less of the lot so divided, subject to the lot of

record not being greater than two (2) acres. It shall be the property owner's responsibility to provide documentation to the Zoning Officer to substantiate the location and area of land of the applicable Zoning Districts for the subject property.

- (D) If the guidelines within this Section above fail to provide and establish the boundary of a zoning district, a survey of the property or area of land in question shall be made by a registered surveyor, with the cost of the survey paid by the party who is questioning or contesting the boundary location.

SECTION 404 CLASSES OF ZONING DISTRICTS

For the purpose of this Ordinance, Lehman is hereby divided into Zoning Districts as designated below:

C-1	CONSERVATION DISTRICT
A-1	AGRICULTURAL DISTRICT
R-1	SINGLE FAMILY RESIDENTIAL DISTRICT
R-2	MULTIFAMILY RESIDENTIAL DISTRICT
B-1	COMMUNITY BUSINESS DISTRICT
B-2	HIGHWAY BUSINESS DISTRICT
I-1	GENERAL INDUSTRIAL DISTRICT
S-1	SPECIAL PURPOSE DISTRICT

ARTICLE 5
ZONING DISTRICT REGULATIONS

SECTION 501 - C-1 CONSERVATION DISTRICT

501.1 PERMITTED USES

- Agriculture, (as defined in Article 2) but excluding concentrated animal feeding operations as defined and regulated under the Pennsylvania Nutrient Management Act, as amended.
- Commercial Greenhouses, Nurseries and Garden Shops
- Conservation Design Subdivision (See Article 6)
- Communication antennas mounted on an existing public utility transmission tower, building or other structure.
- Emergency Services Facility
- Forestry (as defined in Article 2, also see Section 902.13)
- Public Recreational Facilities
- Public Utility Facilities (as defined in Article 2) excluding storage yards)
- No Impact Home Based Business
- Single-Family Dwellings, including mobile homes on permanent foundations.
- Stables (Private) in association with a single family dwelling (limited to properties of not less than 2 acres and limited to not more than two equines)
- Wildlife Refuge
- Accessory Uses to the Above

501.2 USES PERMITTED BY SPECIAL EXCEPTION

- Animal Hospital
- Animal Kennels
- Cemeteries
- Club or Lodge (Private)
- Home Occupations
- Outdoor Fuel Burning Furnace (as defined in Article 2, also see Section 902.20)
- Private Recreational Facilities
- Accessory Uses to the Above

501.3 PROHIBITED USES

- Any use which utilizes and/or stores any hazardous substances (as defined in Article 2)

501.4 CONDITIONAL USES (See Article 8)

- Campgrounds and Recreational Vehicle Parks
- Golf Courses
- Small Wind Energy Conversion System
- Wind Energy Facility (as defined in Article 2)
- Any nonresidential use permitted by right or by special exception, excluding

agricultural uses, shall be deemed a conditional use if it involves either of the following:

- (a) the initial or cumulative earth disturbance activity which equals or exceeds 40,000 square feet of surface area.
- (b) the initial or cumulative construction, placement or installation which equals or exceeds fifteen thousand (15,000) square feet of buildings, structures and/or other impervious surface area.

501.5 SUBDIVISION AND LAND DEVELOPMENT

Any property proposed to be divided into parcels or developed in accordance with the definitions of a "Subdivision" or a "Land Development", as provided in Article 2 of this Ordinance, shall also be subject to the governing regulations and provisions of the Lehman Township Subdivision and Land Development Ordinance.

SECTION 502 – A-1 AGRICULTURAL DISTRICT

502.1 PERMITTED USES

- Agriculture, (as defined in Article 2) but excluding concentrated animal feeding operations as defined and regulated under the Pennsylvania Nutrient Management Act, as amended.
- Conservation Design Subdivisions
- Communication antennas mounted on an existing public utility transmission tower, building or other structure
- Commercial Greenhouses, Nurseries and Garden Shops
- Emergency Services Facility
- Forestry (as defined in Article 2, also see Section 902.13)
- Public Recreational Facilities
- Public Utility Facilities (as defined in Article 2) excluding storage yards)
- No Impact Home Based Business
- Retail sales of Agricultural and/or Forestry products produced and/or processed upon the premises, not to exceed five thousand (5,000) square feet of gross floor area and/or land area.
- Single-Family Dwellings, including mobile homes on permanent foundations.
- Stables (Private) in association with a single family dwelling (limited to properties of not less than 2 acres and limited to not more than two equines).
- Accessory Uses to the Above

502.2 USES PERMITTED BY SPECIAL EXCEPTION

- Animal Hospitals
- Animal Kennels
- Bed and Breakfast Establishments
- Cemeteries
- Group Residences
- Home Occupations
- Outdoor Fuel Burning Furnace(as defined in Article 2, also see Section 902.20)
- Place of Worship
- Private Recreational Facilities
- Public Uses
- Public Utilities Facilities
- Stables (Commercial)
- Accessory Uses to the Above

502.3 PROHIBITED USES

- Any use which utilizes and/or stores any hazardous substances as defined in Article 2 of this Ordinance.

502.4 CONDITIONAL USES (See Article 8)

- Excavation and extraction of minerals, excluding Quarries, (as defined in Article 2)
- Wind Energy Facility (as defined in Article 2)
- Small Wind Energy Conversion System
- Any nonresidential use permitted by right or by special exception, excluding agricultural uses, shall be deemed a conditional use if it involves either of the following:
 - (a) the initial or cumulative earth disturbance activity which equals or exceeds 40,000 square feet of surface area.
 - (b) the initial or cumulative construction, placement or installation which equals or exceeds 15,000 square feet of buildings, structures and/or other impervious surface area.

502.5 SUBDIVISION AND LAND DEVELOPMENT

Any property proposed to be divided into parcels or developed in accordance with the definitions of a "Subdivision" or a "Land Development", as provided in Article 2 of this Ordinance, shall also be subject to the governing regulations and provisions of the Lehman Township Subdivision and Land Development Ordinance.

SECTION 503 - R-1 SINGLE FAMILY RESIDENTIAL DISTRICT

503.1 PERMITTED USES

- Single-family Detached Dwellings (including mobile homes on permanent foundations)
- Group Residence
- Communication antennas mounted on an existing public utility transmission tower, building or other structure.
- Public Utility Facilities as defined in Article 2 of this Ordinance (excluding storage yards)
- No-Impact Home Based Business
- Forestry (as defined in Article 2, also see Section 902.13)
- Accessory Uses to the Above

503.2 USES PERMITTED BY SPECIAL EXCEPTION

- Day Care Home
- Emergency Services Facility
- Home Occupations
- Place of Worship
- Public Recreational Facilities
- Public Uses (except storage yards)
- Public Uses, as defined in Article 2
- Public Utilities Facilities
- Accessory Uses to the Above

503.3 PROHIBITED USES

- Any use which utilizes and/or stores any hazardous substances as defined in Article 2 of this Ordinance.

503.4 CONDITIONAL USES (See Article 8)

- Small Wind Energy Conversion System
- Any nonresidential use permitted by right or by special exception shall be deemed a conditional use if it involves either of the following:
 - (a) the initial or cumulative earth disturbance activity which equals or exceeds 40,000 square feet of surface area.
 - (b) the initial or cumulative construction, placement or installation which equals or exceeds fifteen thousand (15,000) square feet of buildings, structures and/or other impervious surface area.

Any property proposed to be divided into parcels or developed in accordance with the definitions of a "Subdivision" or a "Land Development", as provided in Article 2 of this Ordinance, shall also be subject to the governing regulations and provisions of the Lehman Township Subdivision and Land Development Ordinance.

SECTION 504 - R-2 –MULTIFAMILY RESIDENTIAL DISTRICT

504.1 PERMITTED USES

- Single-family Detached Dwellings (including mobile homes on permanent foundations)
- Two-Family Dwellings
- Townhouses
- No-Impact Home Based Business
- Group Residence
- Forestry (as defined in Article 2, also see Section 902.13)
- Communication antennas mounted on an existing public utility transmission tower, building or other structure.
- Essential Public Utility Facilities as defined in Article 2 of this Ordinance (excluding storage yards)
- Accessory Uses to the Above

504.2 USES PERMITTED BY SPECIAL EXCEPTION

- Day Care Center
- Emergency Services Facility
- Group Residence
- Home Occupations
- Multiple Family Dwellings
- Place of Worship
- Public Recreational Facilities
- Public Uses
- Public Utilities Facilities
- Accessory Uses to the Above

504.3 PROHIBITED USES

- Any use which utilizes and/or stores any hazardous substances as defined in Article 2 of this Ordinance.

504.4 CONDITIONAL USES (See Article 8)

- Mobile Home Parks (Homes on permanent foundations)
- Small Wind Energy Conversion System
- Any nonresidential use permitted by right or by special exception shall be deemed a conditional use if it involves either of the following:
 - (a) the initial or cumulative earth disturbance activity which equals or exceeds 40,000 square feet of surface area.
 - (b) the initial or cumulative construction, placement or installation which equals or exceeds fifteen thousand (15,000) square feet of buildings, structures and/or other impervious surface area.

504.5 SUBDIVISION AND LAND DEVELOPMENT

Any property proposed to be divided into parcels or developed in accordance with the definitions of a "Subdivision" or a "Land Development", as provided in Article 2 of this Ordinance, shall also be subject to the governing regulations and provisions of the Lehman Township Subdivision and Land Development Ordinance.

SECTION 505- B-1 – COMMUNITY BUSINESS DISTRICT

505.1 PERMITTED USES

A. RETAIL BUSINESSES WHICH DO NOT EXCEED 1,500 SQUARE FEET OF GROSS FLOOR AREA INCLUDING OR SIMILAR TO THE FOLLOWING:

- Artist, Music and Hobby Supplies
- Commercial Greenhouses, Nurseries and Garden Shops
- Convenience Stores
- Florist Shops
- Food/Grocery
- Forestry (as defined in Article 2, also see Section 902.13)
- Greeting Cards, Newspapers, Books, Stationery and Gift Shops
- Pharmaceutical Products
- Accessory uses to the above

B. SERVICE-ORIENTED BUSINESS INCLUDING OR SIMILAR TO THE FOLLOWING:

- Day Care Centers
- Emergency Services Facility
- Essential Public Utility Facilities as defined in Article 2 of this Ordinance (excluding storage yards)
- Personal Services
- Professional Offices
- Restaurants without live entertainment and not exceeding 1,500 square feet of gross floor area
- Taverns without live entertainment and not exceeding 1,500 square feet of gross floor area.
- Communication antennas mounted on an existing public utility transmission tower, building or other structure.
- Accessory uses to the above

C. RECREATION AND ENTERTAINMENT RELATED BUSINESS INCLUDING OR SIMILAR TO:

- Club or Lodge (Private)
- Public Recreational Facilities
- Accessory uses to the above

D. RESIDENTIAL USES

- Dwelling over and/or attached to Business
- No-Impact Home Based Business
- Home Occupations
- Accessory uses to the above

505.2 USES PERMITTED BY SPECIAL EXCEPTION

- Commercial Recreational Facilities without live entertainment and not exceeding 1,500 square feet of gross floor area.
- Entertainment Facilities without live entertainment and not exceeding 1,500 square feet of gross floor area
- Place of Worship
- Public Uses
- Public Utilities Facilities
- Accessory uses to the above

505.3 PROHIBITED USES

- Any use which utilizes and/or stores any hazardous substances as defined in Article 2 of this Ordinance.

505.4 CONDITIONAL USES (See Article 8)

- Small Wind Energy Conversion System
- Any nonresidential use permitted by right or by special exception shall be deemed a conditional use if it involves either of the following:
 - (a) the initial or cumulative earth disturbance activity which equals or exceeds 40,000 square feet of surface area.
 - (b) the initial or cumulative construction, placement or installation which equals or exceeds fifteen (15,000) square feet of buildings, structures and/or other impervious surface area.

505.5 SUBDIVISION AND LAND DEVELOPMENT

Any property proposed to be divided into parcels or developed in accordance with the definitions of a "Subdivision" or "Land Development," as provided in Article 2 of this Ordinance, shall also be subject to the governing regulations and provisions of the Lehman Township Subdivision and Land Development Ordinance.

SECTION 506 - B-2- HIGHWAY BUSINESS DISTRICT

506.1 PERMITTED USES

A. RETAIL BUSINESSES AREA INCLUDING OR SIMILAR TO THE FOLLOWING:

- Artist, Music and Hobby Supplies
- Automotive Supplies
- Clothing and Clothing Accessories
- Commercial Greenhouses, Nurseries & Garden Shops
- Convenience Stores
- Convenience Stores with Gas Sales
- Equipment Sales and Repair
- Florist Shops
- Food/Grocery
- Forestry (as defined in Article 2, also see Section 902.13)
- Greeting Cards, Books & Stationery
- Hardware
- Household Goods and Appliances
- Lumber Yards
- Office Equipment and Supplies
- Pharmaceutical Products
- Sporting Goods
- Variety Goods
- Accessory uses to the above

B. SERVICE-ORIENTED BUSINESS INCLUDING OR SIMILAR TO:

- Animal Hospital
- Automotive Sales
- Automotive Services, including reconditioning, detailing polishing, air conditioning, and similar services
- Banks
- Communication antennas mounted on an existing public utility transmission tower, building or other structure.
- Day Care Centers
- Electronic Equipment and Products (Sales, Service and Repair)
- Emergency Services Facility
- Entertainment Facilities
- Funeral Homes
- Gasoline Service Stations
- Health /Recreation Facility
- Hospital
- Nursing Homes
- Personal Services
- Private Garage (storage of commercial vehicles)
- Professional/Business Offices

- Public Utility Facilities (as defined in Article 2 of this Ordinance), excluding storage yards.
- Repair Garage
- Restaurant, Fast Food
- Restaurants
- Taverns
- Warehouse Facilities, including self-storage.
- Accessory uses to the above

C. RECREATION AND ENTERTAINMENT RELATED BUSINESS INCLUDING OR SIMILAR TO:

- Club or Lodge (Private)
- Commercial Recreational Facilities
- Entertainment Facilities
- Private Recreational Facilities
- Public Recreational Facilities
- Accessory uses to the above

D. RESIDENTIAL USES

- Dwelling over and/or attached to Business
- Home Occupations
- No-Impact Home Based Business
- Accessory uses to the above

506.2 USES PERMITTED BY SPECIAL EXCEPTION

- Contractors Yards
- Car Wash
- Hotels/Motels
- Outdoor Storage (Commercial)
- Public Uses
- Public Utilities Facilities
- Accessory uses to the above

506.3 PROHIBITED USES

- Any use which utilizes and/or stores any hazardous substances as defined in Article 2 of this Ordinance.

506.4 CONDITIONAL USES (See Article 8)

- Medical Clinics
- Shopping Center
- Small Wind Energy Conversion System
- Any nonresidential use permitted by right or by special exception shall be deemed a conditional use if it involves either of the following:

- (a) the initial or cumulative earth disturbance activity which equals or exceeds 40,000 square feet of surface area.
- (b) the initial or cumulative construction, placement or installation which equals or exceeds fifteen thousand (15,000) square feet of buildings, structures and/or other impervious surface area.

506.5 SUBDIVISION AND LAND DEVELOPMENT

Any property proposed to be divided into parcels or developed in accordance with the definitions of a "Subdivision" or "Land Development," as provided in Article 2 of this Ordinance, shall also be subject to the governing regulations and provisions of the Lehman Township Subdivision and Land Development Ordinance.

SECTION 507 - I-1 GENERAL INDUSTRIAL DISTRICT

507.1 PERMITTED USES

- Automotive Sales
- Communication antennas mounted on an existing public utility transmission tower, building or other structure.
- Contractors' Offices, Shops and Storage Yards (for commercial uses which sell products such as: lumber, building, heating, plumbing, electrical, masonry, fencing and related material).
- Electronic Equipment and Products (Sales, Service and Repair)
- Emergency Services Facility
- Equipment Sales and Repairs
- Essential Public Utility Facilities as defined in Article 2 of this Ordinance
- Forestry (as defined in Article 2, also see Section 902.13)
- Gasoline Service Stations
- Light Industry (as defined in Article 2)
- Lumberyards Outdoor Storage (Commercial)
- Print Shops
- Public Uses
- Public Utility Facilities
- Repair Garages
- Stone or Monument Works
- Warehouse and Distribution Facilities
- Warehousing, including self-Storage Facilities
- Accessory uses to the above

507.2 USES PERMITTED BY SPECIAL EXCEPTION

- Trucking Facilities

507.3 CONDITIONAL USES (See Article 8)

- Automotive Wrecking Yards
- Bulk Fuel Storage
- Commercial Communications Tower and related facilities
- Excavation and extraction of minerals, including Quarry Operations (as defined in Article 2)
- Heavy Industrial Uses (as defined in Article 2)
- Junk Yards
- Recycling Facilities
- Sewage Treatment Plants
- Sexually Oriented Business
- Small Wind Energy Conversion System
- Solid Waste Facilities
- Staging Areas
- Transfer Stations

Any nonresidential use permitted by right or by special exception shall be deemed a conditional use if it involves any of the following:

- (a) the initial or cumulative earth disturbance activity which equals or exceeds 80,000 square feet of surface area.
- (b) the initial or cumulative construction, placement or installation which equals or exceeds 20,000 square feet of buildings, structures and/or other impervious surface area.
- (c) Any use which utilizes and/or stores any hazardous substances as so defined in Article 2 of this Ordinance.

507.4 SUBDIVISION AND LAND DEVELOPMENT

Any property proposed to be divided into parcels or developed in accordance with the definitions of a "Subdivision" or a "Land Development", as provided in Article 2 of this Ordinance, shall also be subject to the governing regulations and provisions of the Lehman Township Subdivision and Land Development Ordinance.

SECTION 508 - S-1 SPECIAL PURPOSE DISTRICT

508.1 PERMITTED USES

- Agriculture
- Colleges/Universities
- Commercial Communications Tower and related facilities (supplemental standards of Section 813 shall apply.)
- Commercial Recreational Facilities (without live entertainment)
- Day Care Center
- Dormitories
- Emergency Services Facility
- Essential Public Utility Facilities as defined in Article 2 of this Ordinance
- Forestry (as defined in Article 2, also see Section 902.13)
- Private Recreational Facilities (without live entertainment)
- Public Recreational Facilities
- Public Uses
- Public Utilities Facilities
- Schools
- Accessory uses to the above

508.2 USES PERMITTED BY SPECIAL EXCEPTION

- Institutional Use (as defined in Article 2 of this Ordinance)
- Place of Worship

508.3 PROHIBITED USES

- Any use which utilizes and/or stores any hazardous substances as defined in Article 2 of this Ordinance.

508.4 CONDITIONAL USES (See Article 8)

- Small Wind Energy Conversion System
- Any nonresidential use permitted by right or by special exception shall be deemed a conditional use if it involves either of the following:
 - (a) the initial or cumulative earth disturbance activity which equals or exceeds 40,000 square feet of surface area.
 - (b) the initial or cumulative construction, placement or installation which equals or exceeds fifteen thousand (15,000) square feet of buildings, structures and/or other impervious surface area.

508.5 SUBDIVISION AND LAND DEVELOPMENT

Any property proposed to be divided into parcels or developed in accordance with the definitions of a "Subdivision" or a "Land Development", as provided in Article 2 of this

Ordinance, shall also be subject to the governing regulations and provisions of the Lehman Township Subdivision and Land Development Ordinance.

SECTION 509

AREA, BULK AND DENSITY REGULATIONS

THE REGULATIONS PROVIDED HEREIN ONLY APPLY TO EXISTING LOTS OF RECORD.

SEE ARTICLE 6, CONSERVATION DESIGN OVERLAY DISTRICT, FOR APPLICABLE STANDARDS FOR ALL LOTS PROPOSED UNDER A NEW SUBDIVISION

ZONING DISTRICT	MINIMUM ¹					MAXIMUM	
	LOT SIZE ²	WIDTH feet	FRONT YARD SETBACK feet	REAR YARD SETBACK ⁶ feet	SIDE YARD SETBACK ⁶ feet per side	LOT COVERAGE	BLDG. HEIGHT
C-1	3 acres	300	50	50	25	10%	40 feet
A-1	1 acre.	150	50	50	25	15%	40 feet
R-1	1 acre ³ 20,000 sq. ft. ⁴	150	50	25	20 ³ 15 ₄	20%	35 feet
R-2	1 acre ³ 7,500 sq. ft. ⁴	150	50	25	20 ³ 10 ⁴	20%	35 feet
B-1	1 acre ³ 25,000 sq. ft. ⁴	150	50 ³ 25 ⁴	25	20 ⁵	20% 40% ⁴	40 feet
B-2	1 acres ³ 25,000 sq. ft. ⁴	150	50 ³ 25 ⁴	25	20 ⁵	20% 40% ⁴	40 feet
I-1	3 acres	300	50	50	50	30%	55 feet
S-1	3 acres	300	50	50	50	20%	55 feet

1. The minimum requirements may be increased for certain uses as provided for under Article 8, Conditional Uses, Article 9, Supplemental Standards or as otherwise set forth in this Ordinance.
2. Minimum lot size per dwelling unit and/or principal structure.
3. Serviced by on-lot sewage.
4. Serviced by central sewage system.
5. 30 feet required when abutting a Residential Zoning District.
6. In all Zoning Districts, a minimum setback of one hundred (100) feet from any Natural Watercourse, (as defined in Article 2) shall be required for any form of development and/or improvements

ARTICLE 6
CONSERVATION DESIGN OVERLAY DISTRICT

SECTION 601 PURPOSE

- A. In conformance with the Pennsylvania Municipalities Planning Code the purposes of this Article among others, are as follows:
1. To conserve open land, including those areas containing unique and sensitive natural features such as woodlands, steep slopes, streams, flood plains and wetlands, by setting them aside from development.
 2. To provide greater design flexibility and efficiency in the siting of services and infrastructure, including the opportunity to reduce length of roads, utility runs, and the amount of paving required for residential development.
 3. To reduce erosion and sedimentation by the retention of existing vegetation, and the minimization of development on steep slopes.
 4. To provide for a diversity of lot sizes, building densities, and housing choices to accommodate a variety of age and income groups, and residential preferences, so that the community's population diversity may be maintained.
 5. To implement adopted Township's policies to conserve a variety of irreplaceable and environmentally sensitive resource lands as set forth in the Township's Comprehensive Plan including provisions for reasonable incentives to create a greenway system for the benefit of present and future residents.
 6. To protect areas of the Township with productive agricultural soils for continued or future agricultural use, by conserving blocks of land large enough to allow for efficient farm operations.
 7. To create neighborhoods with direct visual access to open land, with amenities in the form of neighborhood open space, and with a strong neighborhood identity.
 8. To provide for the conservation and maintenance of open land within the Township to achieve the above-mentioned goals and for active or passive recreational use by residents.
 9. To provide multiple options for landowners in order to minimize impacts on environmental resources (sensitive lands such as wetlands, flood plain, and steep slopes) and disturbance of natural or cultural features (such as mature woodlands, hedgerows and tree lines, critical wildlife habitats, historic buildings, and fieldstone walls).
 10. To provide standards reflecting the varying circumstances and interests of individual landowners, and the individual characteristics of their properties.
 11. To conserve scenic views and elements of the Township's rural character, and to minimize perceived density, by minimizing views of new development from existing roads.

- B. In order to achieve these purposes, this Article provides for flexibility in designing new residential subdivisions by allowing two forms of "by-right" development referred to as "options", as summarized below:
 1. **Option One: Neutral Density and Basic Conservation**, providing for residential uses at the density of the underlying zoning district. Open space must comprise at least half the tract.
 2. **Option Two: Estate Lots**, providing for rural residential uses at a reduced density of one half of the density of the underlying zoning district in conventional layouts of standard lots, where homes and streets are located carefully to minimize impacts on resource lands. No open space is required.
- C. Section 604 sets forth the development densities and required open space land percentages.

SECTION 602 **GENERAL REGULATIONS**

In addition to the governing requirements of the Lehman Township Subdivision and Land Development Ordinance, the design of all new subdivisions in the Conservation Design Overlay District shall be governed by the following minimum standards:

- A. **Ownership**: The tract of land may be held in single and separate ownership or in multiple ownership. However, when a tract is held in multiple ownership, it shall be planned as a single entity with common authority and common responsibility.
- B. **Site Suitability**: As evidenced by the Existing Resources/Site Analysis Plan, the conceptual Preliminary Plan, and the detailed Final Plan, the tract incorporating this design option shall be suitable for supporting development in terms of environmental conditions, its size, and configuration.
- C. **Combining the Design Options**: The various layout and density options described in this Article may be combined at the discretion of the Planning Commission, based upon demonstration by the applicant that such a combination would better fulfill the intent of this Ordinance, in particular the stated purposes of this Article, as compared with applying a single option to the property.
- D. **Intersections and Access**: New intersections with existing public roads shall be minimized. Although two access ways into and out of subdivisions containing more than 13 (thirteen) dwellings are generally required for safety, proposals for more than two entrances onto public roads shall be discouraged if they would unnecessarily disrupt traffic flow.
- E. **Sensitive Area Disturbance** - The proposed design shall strictly minimize disturbance of environmentally sensitive areas, as shown on the Existing Resources and Site Analysis Plan. Lands within the 100-year floodplain, or having slopes in excess of 25%, and rock outcroppings and wetlands constitute such environmentally sensitive areas, where disturbance shall be strictly minimized. Demonstration by the applicant that these features will be protected by the proposed application shall be prerequisite to approval of both the Preliminary Subdivision Plan and the Final Subdivision Plan.

SECTION 603 **USE REGULATIONS**

The following residential uses shall be permitted in a Conservation Subdivision.

- A. Single-Family Detached Dwellings
- B. Conservation Open Space comprising a portion of residential development, according to requirements of Section 605
- C. Nonresidential Uses - The following non-residential uses:
 - Agricultural uses, including horticultural, wholesale nurseries, and the raising of crops, and buildings related to the same.
 - Wood lots, arboreta, and other similar silvicultural uses.
 - Woodland preserve, game preserve, wildlife sanctuary, or other similar conservation use.
 - Municipal or public uses; public park or recreation area owned and operated by a public or private nonprofit entity or agency; governmental or public utility building or use; not to include business facilities, storage of materials, trucking or repair facilities, the housing of repair crews, private or municipal solid waste disposal facilities.
- D. Accessory Uses - Accessory uses shall be permitted on the same lot with and customarily incidental to any permitted use and not conducted as an independent principal use.

SECTION 604 DENSITY DETERMINATION AND DIMENSIONAL STANDARDS

Maximum density, minimum open space, and dimensional and bulk requirements for Conservation Subdivisions in the C-1 and A-1 Districts are set forth in Tables 6A and 6B below.

**TABLE 6-A
A-1, AGRICULTURAL DISTRICT**

	OPTION 1 Neutral Density/Basic Conservation	OPTION 2 Estate Lots
Density*	1 du/43,560 SF ATA or as determined by a yield plan	1 du/87,120 SF ATA or as determined by a yield plan
Maximum Lot Size	20,000 SF	None
Minimum Lot Size	9,000 SF	43,560 SF
Minimum Lot Width	60 FT	100 FT
Required Open Space**	50% ATA	No common open space
Minimum Street Frontage	25 FT	100 FT
Minimum Front Setback	20 FT	50 FT
Minimum Rear Setback	30 FT	50 FT
Minimum Side	30 feet separation for principal buildings, with no side yard less than 5 feet	25 FT per Side
Maximum Lot Impervious Coverage	30%	15%
Maximum Height	2½ Stories not to exceed 35 ft	2½ Stories not to exceed 35 ft

* Density is based on Adjusted Tract Area, which subtracts constrained land.

** Open space = 50% of Adjusted Tract Area plus constrained land.

**TABLE 6-B
C-1, CONSERVATION DISTRICT**

	OPTION 1 Neutral Density/Basic Conservation	OPTION 2 Estate Lots
Density*	1 du/130,680 SF ATA or as determined by a yield plan	1 du/261,360 SF ATA or as determined by a yield plan
Maximum Lot Size	43,560 SF	None
Minimum Lot Size	20,000 SF	87,120 SF
Minimum Lot Width	60 FT	300 FT
Required Open Space**	50% ATA	No common open space
Minimum Street Frontage	25 FT	300 FT
Minimum Front Setback	20 FT	75 FT
Minimum Rear Setback	30 FT	50 FT
Minimum Side	30 feet separation for principal buildings, with no side yard less than 5 feet	25 FT per Side
Maximum Lot Impervious Coverage	30%	10%
Maximum Height	2 ¹ / ₂ Stories not to exceed 35 ft	2 ¹ / ₂ Stories not to exceed 35 ft

* Density is based on Adjusted Tract Area, which subtracts constrained land.

** Open space = the given percentage of Adjusted Tract Area plus constrained land.

SECTION 605 METHODS FOR DENSITY DETERMINATION FOR CONSERVATION
SUBDIVISIONS

Applicants shall have the choice of two methods of determining the maximum permitted residential building density on their properties. They are as follows:

1. **Adjusted Tract Acreage Approach:** Determination of the maximum number of permitted dwelling units on any given property may be based upon the Adjusted Tract Acreage of the site. The Adjusted Tract Acreage shall be determined by subtracting the constrained land from the gross tract area. Constrained land shall be determined by multiplying the following categories of land by the given percentage.
 - A. The following areas of constrained land shall be deducted from the gross (total) tract area:
 1. Rights-of-way: multiply the acreage of land within the rights-of-way of existing public streets or highways, or within the rights-of-way for existing or proposed overhead rights-of-way of utility lines or any other rights-of-way by 100%.
 2. Private Streets: multiply the acreage of land under existing private streets by 100%.
 3. Wetlands: multiply the acreage of designated wetlands by 95%
 4. Floodway: multiply the acreage within the floodway by 100%.
 5. Floodplain: multiply the non-wetland portion of the 100-year floodplain by 50%.
 6. Steep Slopes: multiply the acreage of land with natural ground slopes exceeding 25 percent by 80%
 7. Moderately Steep Slopes: multiply the acreage of land with natural ground slopes of between 15 and 25 percent by 60%.
 8. Extensive Rock Outcroppings: multiply the total area of rock outcrops and boulder-fields more than 1,000 square feet by 90%.
 9. Ponds, lakes and streams: multiply the acreage of ponds, lakes and streams by 100%.

- B. If a portion of the tract is underlain by more than one natural feature subject to a deduction from the total tract acreage, that acreage shall be subject to the most restrictive density factor.
 - C. Since acreage that is contained within the public or private rights-of-way, access easements or access strips is excluded from useable lot area, any portion of these items that also contains a natural feature subject to a deduction from the total tract acreage shall not be included when calculating the adjusted tract acreage.
2. **Yield Plan Approach:** The maximum permitted residential building density may be based upon an actual Yield Plan. Yield Plans shall meet the following requirements:
- A. **SALDO Requirements** - Yield Plans must be prepared in accordance with the standards of the Lehman Township Subdivision and Land Development Ordinance, containing proposed lots, streets, rights-of-way, and other pertinent features. Although it must be drawn to scale, it need not be based on a field survey. However, it must be a realistic layout reflecting a development pattern that could reasonably be expected to be implemented, taking into account the presence of wetlands, floodplain, steep slopes, existing easements or encumbrances and, if unsewered, the suitability of soils for subsurface sewage disposal.
 - B. **Resource Identification** - The Yield Plan must identify the site's primary and secondary conservation areas, as identified in the Existing Resources/Site Analysis Plan, and demonstrate that the primary conservation areas could be successfully absorbed in the development process without disturbance, by allocating this area to proposed single-family dwelling lots which conform to the density factor of the chosen option. The Yield Plan shall be based upon accurate mapping of wetlands, 100 year floodplains and land with slopes greater than 15 percent.
 - C. **Individual Sewage Disposal Systems** - On sites not served by central sewage disposal, density shall be further determined by evaluating the number of homes that could be supported by individual on-lot soils-based sewage disposal systems on conventional lots. For the purposes of determining density under this Section, this standard shall exclude holding tanks, individual stream discharge systems and evapotranspiration systems. Based on the primary and secondary resources, identified as part of the inventory and analysis, and observations made during an on-site visit of the property, the Township shall select a ten (10) percent sample of the lots considered to be marginal for on-lot sewage disposal. The applicant is required to provide evidence that these lots meet the standards for an individual soils-based on-lot sewage disposal system and system replacement area before the applicant shall be granted the full density determined by the Yield Plan. Should any of the lots in a sample fail to meet the standard for individual soils-based septic system, those lots shall be deducted from the yield plan and a second ten (10) percent sample shall be selected by the Township and tested for compliance. This process shall be repeated until all lots in a given sample meet the standard for an individual on-lot soils-based sewage disposal system.
 - D. **Yield Plan Density and Dimensional Standards** -The following dimensional standards shall be used in the development of Yield Plans for Conservation Design Subdivisions. The minimum lot sizes are derived from the density factor for the district location of the proposed development and the type of water supply and sewage

disposal proposed. These minimum area dimensions are exclusive of all wetlands, slopes greater than twenty-five (25) percent, and land under high-tension electrical transmission lines (69kV or greater). No more than twenty-five (25) percent of the minimum required lot area may consist of land within the 100-year floodplain, and only then if it is free of wetlands.

Standard	C-1 District	A-1 District
Minimum lot area	3 acres	1 acre
Minimum street frontage	300 feet	100 feet
Front yard setback	75 feet	50 feet
Rear yard setback	50 feet	50 feet
Side yard setback	25 feet per side	25 feet per side

SECTION 606 DESIGN STANDARDS FOR CONSERVATION SUBDIVISIONS

- A. Lots shall not encroach upon Primary Conservation Areas as identified in the Township’s Subdivision and Land Development Ordinance, and their layout shall respect Secondary Conservation Areas as described in both the Township’s Zoning Ordinance and in the Subdivision and Land Development Ordinance.
- B. All new dwellings shall meet the following setback requirements:
 - 1. From all external road ultimate right-of-way - 100 feet
 - 2. From all other tract boundaries - 50 feet
 - 3. From cropland or pasture land - 100 feet
 - 4. From buildings or barnyards housing livestock - 300 feet
 - 5. From active recreation areas such as courts or playingfields (not including tot-lots) - 150 feet.
- C. Views of lots from exterior roads and abutting properties shall be minimized by the use of changes in topography, existing vegetation, or additional landscaping which meets the landscaping requirements of the Township’s Subdivision and Land Development Ordinance.
- D. Lots shall generally be accessed from interior streets, rather than from roads bordering the tract.
- E. One centrally located access point to the open space shall be provided for every 15 lots and shall be at least 35 feet wide.
- F. At least 50% of the dwelling units shall face open space, with the front façade of the dwelling, either directly or across a street.

SECTION 607 OPEN SPACE LAND USE AND DESIGN STANDARDS

Protected open space land in all subdivisions shall meet the following standards:

A. Uses Permitted On Open Space Lands

The following uses are permitted in open space land areas:

1. Conservation of open land in its natural state (for example, woodland, fallow field, or managed meadow);
2. Agricultural and horticultural uses, including raising crops or livestock, wholesale nurseries, associated buildings, excluding residences that are specifically needed to support an active, viable agricultural or horticultural operation. Specifically excluded are commercial livestock operations involving swine, poultry, mink, and other animals likely to produce highly offensive odors.
3. Pastureland for horses used solely for recreational purposes. Equestrian facilities shall be permitted but may not consume more than half of the minimum required open space land.
4. Forestry, in keeping with established best management practices for selective harvesting and sustained-yield forestry.
5. Neighborhood open space uses such as village greens, commons, picnic areas, community gardens, public trails, and similar low-impact passive recreational uses specifically excluding motorized off-road vehicles, rifle ranges, and other uses similar in character and potential impact as determined by the Planning Commission.
6. Active non-commercial recreation areas, such as playingfields, playgrounds, courts, and bikeways, provided such areas do not consume more than half of the minimum required open space land or five acres, whichever is less. Playingfields, playgrounds, and courts shall not be located within 100 feet of abutting properties. Parking facilities for the same shall also be permitted, and they shall generally be gravel-surfaced, unlighted, properly drained, provide safe ingress and egress, and contain no more than ten parking spaces.
7. Golf courses, including their parking areas and associated structures, may comprise up to half of the minimum required open space land, but shall not include driving ranges or miniature golf.
8. Water supply and sewage disposal systems, and stormwater detention areas designed, landscaped, and available for use as an integral part of the Open space.
9. Easements for drainage, access, sewer or water lines, or other public purposes;
10. Underground utility rights-of-way. Above-ground utility and street rights-of-way may traverse conservation areas but shall not count toward the minimum required open space land.

B. Open Space Design Standards

1. Open Space lands shall be laid out in consideration of the Township's Comprehensive Plan to ensure that an interconnected network of open space will be provided. The required open space land consists of a mixture of Primary Conservation Areas, all of which must be included, and Secondary Conservation Areas. Primary Conservation Areas comprise floodplains, wetlands, and slopes over 25%. Secondary Conservation Areas should include special features of the property that would ordinarily be overlooked or ignored during the design process.

2. The open space land shall comprise a minimum of 50% of the Adjusted Tract Area. This land shall generally remain undivided and may be owned and maintained by a community association, a homeowners' association, land trust, another conservation organization recognized by the Township, or by a private individual (typically as part of the original farmhouse). However, in no case shall less than 30% of the land comprising the "Adjusted Tract Area" be available for the common use and passive enjoyment of the subdivision residents. These ownership options may be combined so that different parts of the open space land may be owned by different entities.
3. Greens.
 - a. At least three percent (3%) of the required open space shall be in the form of common greens. A green is typically 5,000-20,000 square feet in area, with a maximum area of 32,000 square feet.
 - b. A green shall be created and maintained as the open space around which dwellings are arranged. Dwellings shall face the green with the front façade of the dwelling.
 - c. Greens shall be surrounded by roads on at least two sides, but more commonly on three or four sides.

SECTION 608 OWNERSHIP AND MAINTENANCE OF OPEN SPACE LAND AND COMMON FACILITIES

A. DEVELOPMENT RESTRICTIONS

All Open Space land shall be permanently restricted from future subdivision and development. Under no circumstances shall any development be permitted in the open space at any time, except for those uses listed in Section 607(A).

B. OWNERSHIP OPTIONS

The following methods may be used, either individually or in combination, to own common facilities. Common facilities shall not be transferred to another entity except for transfer to another method of ownership permitted under this section, and then only when there is no decrease in the common facilities or in the open space ratio of the overall development. Ownership methods shall conform to the following:

1. Fee Simple Dedication to the Township. The Township may, but shall not be required to, accept any portion of the common facilities, provided that:
 - a. There is no cost of acquisition to the Township; and,
 - b. The Township agrees to and has access to maintain such facilities.
2. Condominium Association. Common facilities may be controlled through the use of condominium agreements. Such agreements shall be in accordance with relevant state law. All open land and common facilities shall be held as "common element."
3. Community Association or Homeowners' Association. Common facilities may be held in common ownership by a community association or homeowners' association, subject to

all of the provisions for the community association or homeowners' association set forth in state regulations and statutes. In addition, the following regulations shall be met:

- a. The applicant shall provide the Township a description of the organization of the proposed association, including its by-laws, and all documents governing ownership, maintenance, and use restrictions for common facilities;
 - b. The proposed association shall be established by the owner or applicant and shall be operating (with financial subsidization by the owner or applicant, if necessary) before the sale of any dwelling units in the development;
 - c. Membership in the association shall be automatic (mandatory) for all purchasers of dwelling units therein and their successors in title;
 - d. The association shall be responsible for maintenance and insurance of common facilities;
 - e. The by-laws shall confer legal authority on the association to place a lien on the real property of any member who falls delinquent in his dues. Such dues shall be paid with the accrued interest before the lien may be lifted;
 - f. Written notice of any proposed transfer of common facilities by the association or the assumption of maintenance for common facilities must be given to all members of the association and to the Township no less than thirty days prior to such event;
 - g. The association shall have adequate staff to administer, maintain, and operate such common facilities.
4. Private Conservation Organization or the County. With permission of the Township, an owner may transfer either fee simple title of the open space or easements on the open space to a private non-profit conservation organization or to the County provided that:
- a. The conservation organization is acceptable to the Township and is a bona fide conservation organization intended to exist indefinitely;
 - b. The conveyance contains appropriate provisions for proper reverter or retransfer in the event that the organization becomes unwilling or unable to continue carrying out its functions;
 - c. The Open Space land is permanently restricted from future development through a conservation easement and the Township is given the ability to enforce these restrictions; and
 - d. A maintenance agreement acceptable to the Township is established between the owner and the organization.
5. Dedication of Easements to the Township. The Township may, but shall not be required to, accept easements for public use of any portion of the common land or facilities. In such cases, the facility remains in the ownership of the condominium association, community

association, homeowners' association, or private conservation organization while the easements are held by the Township. In addition, the following regulations shall apply:

- a. There shall be no cost of acquisition to the Township;
 - b. Any such easements for public use shall be accessible to the residents of the Township; and
 - c. A satisfactory maintenance agreement shall be reached between the owner and the Township.
6. Private Ownership. Up to 80% of the required open space may be included within one or more large "conservancy lots," provided:
- a. The lot shall be at least 10 acres;
 - b. The open space shall be permanently restricted from future development through a conservation easement, except for those uses listed in Section 607.A.
 - c. The Township shall be given the authority to enforce these restrictions.

C. MAINTENANCE

1. Unless otherwise agreed to by the Planning Commission, the cost and responsibility of maintaining common facilities and Open Space land shall be borne by the property owner, condominium association, community association, homeowners' association, or conservation organization.
2. The applicant shall, at the time of preliminary plan submission, provide a Plan for Maintenance of Open Space Lands and Operation of Common Facilities.
 - a. The Plan shall define ownership;
 - b. The Plan shall establish necessary regular and periodic operation and maintenance responsibilities for the various kinds of open space (i.e. lawns, playing fields, meadow, pasture, cropland, woodlands, etc.);
 - c. The Plan shall estimate staffing needs, insurance requirements, and associated costs, and define the means for funding the maintenance of the open space land and operation of any common facilities on an on-going basis. Such funding plan shall include the means for funding long-term capital improvements as well as regular yearly operating and maintenance costs;
 - d. At the Township's discretion, the applicant may be required to escrow sufficient funds for the maintenance and operation costs of common facilities for up to one year; and,
 - e. Any changes to the maintenance plan shall be approved by the Planning Commission.
3. In the event that the organization established to maintain the open space lands and the common facilities, or any successor organization thereto, fails to maintain all or any portion thereof in reasonable order and condition, the Township may assume responsibility for maintenance, in which case any escrow funds may be forfeited and any permits may be revoked or suspended.

4. The Township may enter the premises and take corrective action, including extended maintenance. The costs of such corrective action may be charged to the property owner, condominium association, community association, homeowners association, conservation organization, or individual property owners who make up a condominium association, a community association or a homeowners' association and may include administrative costs and penalties. Such costs shall become a lien on said properties. Notice of such lien shall be filed by the Township in the office of the Prothonotary of Luzerne County.

ARTICLE 7
SPECIAL EXCEPTIONS

SECTION 701 PURPOSE

The purpose of a use classified as a "special exception" is to provide expressed standards for regulating unique or special characteristics of certain uses which may otherwise allow such uses to be permitted by right within their respective zoning district, as provided in Article 5, Zoning District Regulations.

SECTION 702 GENERAL PROVISIONS

The authority for approving or denying applications for uses permitted by special exception shall be vested in the Zoning Hearing Board in accordance with the provisions contained in Article 16. Decisions by the Zoning Hearing Board shall be made pursuant to the standards and criteria set forth in Section 1610.2, the respective zoning district in which the use is located, all other applicable regulations of this Ordinance, other ordinances of the Township and any applicable State and/or Federal regulations.

SECTION 703 SITE PLAN

Uses classified as a special exception shall file, in addition to a zoning permit application and an application for hearing before the Zoning Hearing Board, a site plan at a scale of:

One (1) inch equals fifty (50) feet for uses/developments located upon properties in excess of two (2) acres.

OR

One (1) inch equals twenty (20) feet for uses/developments located upon properties being two (2) acres or less.

Please note that the subject applications must be signed by both the applicant and the landowner, regardless of any equitable interest or other documentation held by the applicant. Failure to provide an application bearing both signatures will be deemed to be an incomplete submission and shall represent a basis for denying the application.

Such site plan shall provide all applicable information required for the Zoning Hearing Board to render a decision, including but not limited to the following:

1. The location and size of all buildings and structures, both principal and accessory, both existing and proposed.
2. The location of all off-street parking areas and/or loading and unloading areas.
3. The location of all open space areas, including buffer areas and fencing, as applicable.
4. Traffic access to the site and internal traffic circulation including the width and pavement of traffic lanes, and aisle widths.

5. All streets, both public and private within two-hundred (200) feet of the site, including right-of-way and cartway widths.
6. Streams, ponds, watercourses, wetlands, or any other types of bodies of water, including natural or man-made drainage swales, located on the site or within two hundred (200) feet of the site.
7. The location, nature and terms of any existing or proposed easements on the site, and any easements both on-site and off-site which are used or intended to be used for access to the site, including the name and address of the owner or owners granting such easement.
8. The location of any residential structures which border the site on an adjoining lot and/or those within two hundred (200) feet of any property boundary line of the subject site.
9. The Map, Block and Lot Number of the subject parcel, as contained in the records of the Office of the Luzerne County Recorder of Deeds.
10. A location map at a scale of not greater than one (1) inch equals two thousand (2,000) feet, indicating the relation of the site to its geographic proximity within the Township.
11. In cases when a proposed use includes new construction and/or grading of the site, applicant shall provide upon the site plan the contours of the site at vertical intervals of:
 - not more than five (5) feet for land with an average natural slope of five (5%) percent or less.
 - not more than ten (10) feet for land with an average natural slope exceeding five (5%) percent.
 - not more than twenty (20) feet for land with an average natural slope exceeding fifteen (15%) percent.

Topography data shall be prepared by a professional land surveyor or professional engineer from an actual field survey of the site or from stereoscopic aerial photography and shall be coordinated with official U.S.G.S. benchmarks.
12. If applicable, the applicant shall submit a Soil Erosion and Sedimentation Plan and/or NPDES Permit for review and approval by the Luzerne County Conservation District.
13. The applicant shall submit with the site plan, a narrative that outlines and fully describes all proposed uses or development of the site, along with all pertinent operational aspects, features and/or activities related to the proposed uses or development of the site.
14. The applicant shall supply any other information required by the Lehman Township Zoning Hearing Board for determining the conformance of the

special exception use with the applicable regulations for that particular use.

SECTION 704 IMPACT ANALYSIS

In considering an application for a special exception, the Zoning Hearing Board shall have the authority to require the applicant to prepare an "Impact Analysis" on a particular aspect of the subject application and/or potential effect of the subject application in relationship to surrounding properties in accordance with the definition of said term as provided within Article 2 of this Ordinance.

ARTICLE 8
CONDITIONAL USES

SECTION 801 PURPOSE

The purpose of a use classified as a “Conditional Use” is to provide expressed standards to regulate uses classified as such in particular zoning districts, as provided in Article 5 of this Ordinance.

SECTION 802 GENERAL PROVISIONS

The authority for approving or denying applications for uses permitted as a conditional use shall be vested in the Lehman Township Board of Supervisors, with the Lehman Township Planning Commission having the authority to review and submit their recommendations to the Board of Supervisors. Any Conditional Use application and plans for a proposed PRD or a Mobile Home Park shall also be submitted to the Luzerne County Planning Commission for its review and comment. Decisions by the Board of Supervisors shall be made in accordance with standards and criteria set forth in this Article, any studies and reports required within the context of an Impact Analysis, as so defined in Article 2 of this Ordinance, the respective zoning district in which the use is located, all other applicable regulations of this Ordinance, other ordinances of the Township and all applicable State and/or Federal regulations.

SECTION 803 PROCEDURE FOR SUBMISSION AND DECISIONS

The procedure for approval or denial of a conditional use shall be in accordance with the following:

- A. An application for a conditional use permit, bearing the signature of both the applicant and property owner, along with a copy of the deed to the property shall be submitted to the Zoning Officer with a site plan at a scale of not greater than:

One inch (1) equals fifty (50) feet for properties in excess of two (2) acres.

OR

One (1) inch equals twenty (20) feet for properties being two (2) acres or less.

Please note that a Conditional Use Application must be signed by both the applicant and the landowner, regardless of any equitable interest or other documentation held by the applicant. Failure to provide an application bearing both signatures will be deemed to be an incomplete submission and shall represent a basis for denying the application.

Such plan shall, at minimum, indicate:

1. The location and size of all buildings and structures, both principal and accessory, both existing and proposed.
2. The location of all off-street parking areas and/or loading and unloading areas.
3. The location of all open space areas, including buffer areas and fencing, as applicable.
4. Traffic access to the site and internal traffic circulation including the width and pavement of traffic lanes, and aisle widths.
5. All streets, both public and private within two-hundred (200) feet of the site, including right-of-way and cartway widths.
6. Streams, ponds, watercourses, wetlands, or any other types of bodies of water, including natural or man-made drainage swales, located on the site or within two hundred (200) feet of the site.
7. The location, nature and terms of any existing or proposed easements on the site, and any easements both on-site and off-site which are used or intended to be used for access to the site, including the name and address of the owner or owners granting such easement.
8. The location of any residential structures which border the site on an adjoining lot and/or those within two hundred (200) feet of any property boundary line of the subject site.
9. The Map, Block and Lot Number of the subject parcel, as contained in the records of the Office of the Luzerne County Recorder of Deeds.
10. A location map at a scale of not greater than one (1) inch equals two thousand (2,000) feet, indicating the relation of the site to its geographic proximity within the Township.
11. In cases when a proposed use includes new construction and/or grading of the site, applicant shall provide upon the site plan the contours of the site at vertical intervals of:
 - not more than five (5) feet for land with an average natural slope of five (5%) percent or less.
 - not more than ten (10) feet for land with an average natural slope exceeding five (5%) percent.
 - not more than twenty (20) feet for land with an average natural slope exceeding fifteen (15%) percent.

Topography data shall be prepared by a professional land surveyor or professional engineer from an actual field survey of the site or from stereoscopic aerial photography and shall be coordinated with official U.S.G.S. benchmarks.

12. If applicable, the applicant shall submit a Soil Erosion and Sedimentation Plan and/or NPDES Permit for review and approval by the Luzerne Conservation District.
 13. The applicant shall submit with the site plan, a narrative that outlines and fully describes all proposed uses or development of the site, along with all pertinent operational aspects, features and/or activities related to the proposed uses or development of the site.
 14. The applicant shall supply any other information required by the Lehman Township Board of Supervisors for determining the conformance of the conditional use with the regulations for that particular use.
- B. Prior to approving or denying an application for a conditional use, the Lehman Township Board of Supervisors shall conduct a public hearing pursuant to public notice. The Board of Supervisors shall submit the application for the proposed conditional use to the Lehman Township Planning Commission, not less than thirty (30) days prior to the public hearing, to allow the Planning Commission to submit any such recommendations as they may deem appropriate. Any Conditional Use application and plans for a proposed PRD or a Mobile Home Park shall also be submitted to Luzerne County Planning Commission for its review and comment.
- C. The public hearing shall be held and conducted in accordance with the same procedural guidelines, which govern the Zoning Hearing Board under Article 15 of this Ordinance. The term "Board of Supervisors" shall replace the term "Zoning Hearing Board" in relevant passages of said Article.
- D. The Board of Supervisors shall convene a hearing on a conditional use application within sixty (60) days from the date of the applicant's request, unless the applicant has agreed in writing to an extension of time. The sixty (60) day time period shall not commence until the applicant has submitted a properly completed application, with all required signatures and all required fees. Each subsequent hearing shall be held within forty-five (45) days of the prior hearing unless otherwise agreed to by the applicant in writing or on the record.
- E. The Board of Supervisors shall render a final decision on a conditional use application within forty-five (45) days following the conclusion of the last public hearing. If the Board of Supervisors fails to render a final decision within forty-five (45) days following the conclusion of the last public hearing the decision shall be deemed to have been rendered in favor of the applicant, unless the applicant has agreed in writing or on the record to an extension of time

If the Board of Supervisors fails to conduct or complete the required hearing as provided for under Section 1606 (D) of this Ordinance, the decision shall be deemed to have been rendered in favor of the applicant unless the applicant has agreed in writing or on the record to an extension of time.

When a decision has been rendered in favor of the applicant because of the failure of the Board of Supervisors to meet or render a decision as hereinabove provided, the Board of Supervisors shall give public notice of the decision within ten (10) days from the last day it could have met to render a decision in the same manner as required by public notice. If the Board of Supervisors fails to provide such notice, the applicant may do so.

- F. The Board of Supervisors may grant an approval for a conditional use upon its determination that adequate evidence and information has been provided, which indicates the applicant's proposal meets the general and specific requirements for the type of conditional use in question, and any additional conditions and safeguards deemed necessary to protect the public health, safety and general welfare.

SECTION 804 GENERAL STANDARDS

The general standards contained herein shall be utilized in the review of applications and plans for any use which is classified as a conditional use.

- A. The proposed use shall not jeopardize the Community Development Objectives of this Ordinance nor shall it adversely affect the health, safety and welfare of the public and/or the environment.
- B. Public services and facilities such as streets, sewage disposal, water, police and fire protection shall be adequate for the proposed use.
- C. Existing and future streets and access to the site shall be adequate for emergency services, for avoiding undue congestion, and for providing for the safety and convenience of pedestrian and vehicular traffic. The proposed use shall not result in unsafe or dangerous traffic conditions.
- D. The proposed use shall be compatible with the adjoining development and the character of the zoning district where it is proposed to be located. The nature and intensity of the operation of the proposed use shall be considered regarding its compatibility or lack thereof with the adjoining development and the character of the zoning district.
- E. The proposed use shall not substantially impair the value of other property in the neighborhood where it is proposed to be located.
- F. The proposed use and/or development shall not be more objectionable in its operation in terms of noise, fumes, odors, vibration or lighting than would be the operations of any permitted use in the district.

- G. The proposed use and/or development shall not result in any adverse or negative impacts based upon the information required with submission of an Environmental Impact Statement required under Section 806 of this Ordinance, and all subsections thereunder.
- H. The submission of any reports and/or studies within the context of the definition "Impact Analysis" as contained within Article 2 of this Ordinance, must conclusively demonstrate that the proposed use or development will not have a negative impact upon the particular subject or subjects as defined by the Board of Supervisors including but not limited to the interest of protecting the health, safety and welfare of the public and environmental features and characteristics of the site and/or surrounding areas.

SECTION 805 CLASSIFIED CONDITIONAL USES

The following uses/developments are classified as conditional uses within Article 5 of this Ordinance:

C-1, Conservation District

- Campgrounds and Recreational Vehicle Parks
- Excavation and extraction of minerals, excluding Quarries, (as defined in Article 2)
- Golf Courses
- Small Wind Energy Conversion System
- Wind Energy Facility (as defined in Article 2)
- Any nonresidential use permitted by right or by special exception, excluding agricultural uses, shall be deemed a conditional use if it involves either of the following:
 - (a) the initial or cumulative earth disturbance activity which equals or exceeds 40,000 square feet of surface area.
 - (b) the initial or cumulative construction, placement or installation which equals or exceeds fifteen thousand (15,000) square feet of buildings, structures and/or other impervious surface area.

A-1, Agricultural District

- Excavation and extraction of minerals, excluding Quarries, (as defined in Article 2)
- Wind Energy Facility (as defined in Article 2)
- Small Wind Energy Conversion System
- Any nonresidential use permitted by right or by special exception, excluding agricultural uses, shall be deemed a conditional use if it involves either of the following:
 - (a) the initial or cumulative earth disturbance activity which equals or exceeds 40,000 square feet of surface area.

- (b) the initial or cumulative construction, placement or installation which equals or exceeds 15,000 square feet of buildings, structures and/or other impervious surface area.

R-1, Single Family Residential

- Small Wind Energy Conversion System
- Any nonresidential use permitted by right or by special exception shall be deemed a conditional use if it involves either of the following:
 - (a) the initial or cumulative earth disturbance activity which equals or exceeds 40,000 square feet of surface area.
 - (b) the initial or cumulative construction, placement or installation which equals or exceeds fifteen thousand (15,000) square feet of buildings, structures and/or other impervious surface area.

R-2, Multifamily Residential District

- Mobile Home Parks (Homes on permanent foundations)
- Small Wind Energy Conversion System
- Any nonresidential use permitted by right or by special exception shall be deemed a conditional use if it involves either of the following:
 - (a) the initial or cumulative earth disturbance activity which equals or exceeds 40,000 square feet of surface area.
 - (b) the initial or cumulative construction, placement or installation which equals or exceeds fifteen thousand (15,000) square feet of buildings, structures and/or other impervious surface area.

B-1, Community Business District

- Small Wind Energy Conversion System
- Any nonresidential use permitted by right or by special exception shall be deemed a conditional use if it involves either of the following:
 - (a) the initial or cumulative earth disturbance activity which equals or exceeds 40,000 square feet of surface area.
 - (b) the initial or cumulative construction, placement or installation which equals or exceeds fifteen thousand (15,000) square feet of buildings, structures and/or other impervious surface area.

B-2, Highway Business District

- Medical Clinics
- Shopping Center

- Small Wind Energy Conversion System
- Any nonresidential use permitted by right or by special exception shall be deemed a conditional use if it involves either of the following:
 - (a) the initial or cumulative earth disturbance activity which equals or exceeds 40,000 square feet of surface area.
 - (b) the initial or cumulative construction, placement or installation which equals or exceeds fifteen thousand (15,000) square feet of buildings, structures and/or other impervious surface area.

I-1, General Industrial District

- Automotive Wrecking Yards
- Bulk Fuel Storage
- Excavation and extraction of minerals, including Quarry Operations (as defined in Article 2)
- Heavy Industry (as defined in Article 2)
- Junk Yards
- Sewage Treatment Plants
- Sexually Oriented Business (as defined in Article 2)
- Small Wind Energy Conversion System
- Solid Waste Facilities
- Staging Areas
- Transfer Stations
- Any nonresidential use permitted by right or by special exception shall be deemed a conditional use if it involves any of the following:
 - (a) the initial or cumulative earth disturbance activity which equals or exceeds 80,000 square feet of surface area.
 - (b) the initial or cumulative construction, placement or installation which equals or exceeds 20,000 square feet of buildings, structures and/or other impervious surface area.
 - (c) Any use which utilizes and/or stores any hazardous substances as so defined in Article 2 of this Ordinance.

S-1, Special Purpose District

- Small Wind Energy Conversion System
- Any nonresidential use permitted by right or by special exception shall be deemed a conditional use if it involves either of the following:
 - (a) the initial or cumulative earth disturbance activity which equals or exceeds 40,000 square feet of surface area.

- (b) the initial or cumulative construction, placement or installation which equals or exceeds fifteen thousand (15,000) square feet of buildings, structures and/or other impervious surface area.

Any nonresidential use permitted by right or by special exception shall be deemed a conditional use if it involves either of the following:

- (a) the initial or cumulative earth disturbance activity which equals or exceeds 80,000 square feet of surface area.
- (b) the initial or cumulative construction, placement or installation which equals or exceeds 20,000 square feet of buildings, structures and/or other impervious surface area.

SECTION 806 ENVIRONMENTAL IMPACT STATEMENT

In addition to all other requirements, an Environmental Impact Statement shall be required for any use/development which is classified as a conditional use. The Board of Supervisors, at its sole discretion, may exempt a use from the submission of an Environmental Impact Statement, in whole or in part. Consideration of an exemption must be preceded by a written request submitted by the applicant which addresses the basis for the requested exemption. The purpose of the Environmental Impact Statement is to disclose the environmental consequences of a proposed action. This requirement is designed to protect the natural environment with respect to water quality, water supply, soil erosion, pollution of any kind, flooding and waste disposal. The intent is to preserve trees and vegetation, to protect water courses, air quality, aquifers and the quality of life throughout Lehman Township and its environs. An Environmental Impact Statement shall include a response to the following items and said proposed use/development shall further comply with all other applicable standards and requirements of this Ordinance:

806.01. SOIL TYPES

- a. U.S.D.A. Soil Types (illustrated upon map).
- b. Permeability of soil on the site.
- c. Rate of percolation of water through the soil for every five acres.

806.02 SURFACE WATERS

- a. Distance of site from the nearest surface water and head waters of streams.
- b. Sources of runoff water.
- c. Rate of runoff from the site.

- d. Destination of runoff water and method of controlling downstream effects.
- e. Chemical additives to runoff water on the site.
- f. Submission of a soils erosion and sedimentation control plan meeting the requirements of the Luzerne Conservation District.
- g. A storm water management plan which shall be developed in coordination with the soils erosion and sedimentation plan.

806.03 GROUND COVER INCLUDING TREES

- a. Extent of existing impervious ground cover on the site.
- b. Extent of proposed impervious ground cover on the site.
- c. Extent of existing vegetative cover on the site.
- d. Extent of proposed vegetative cover on the site.

806.04 TOPOGRAPHY

- a. Maximum existing elevation of site.
- b. Minimum existing elevation of site.
- c. Maximum proposed elevation of site.
- d. Minimum proposed elevation of site.
- e. Description of the topography of the site and all proposed changes in topography.

806.05 GROUND WATER

- a. Average depth to seasonal high water table.
- b. Minimum depth to water table on site.
- c. Maximum depth to water table on site.

806.06 WATER SUPPLY

- a. The source and adequacy of water to be provided to the site.
- b. The projected water requirements (G.P.D.) for the site.

- c. The uses to which the water will be put.

806.07 SEWAGE SYSTEM

- a. Sewage disposal system (description and location on the site of system).
- b. Expected content of sewage effluents (human waste, pesticides, detergents, oils, heavy metals, and other chemicals).
- c. Projected daily volumes of sewage.
- d. Affected sewage treatment plant's present capacity and design capacity.

806.08 SOLID WASTE

- a. Estimated quantity of solid waste to be developed and/or processed on the site during and after construction.
- b. Method of disposal and/or processing of solid waste during and after construction.
- c. Plans for recycling of solid waste during and after construction.

806.09 AIR QUALITY

- a. Expected changes in air quality due to activities at the site during and after construction.
- b. Plans for control of emissions affecting air quality.

806.10 NOISE

- a. Noise levels, above existing levels, anticipated to be generated at the site, (source and magnitude), during and after construction.
- b. Proposed method for control of additional noise on-site during and after construction.

806.11 IMPACT OF PROPOSED USE/DEVELOPMENT

A description of the impacts on the environment and mitigating factors shall be provided for the following:

- a. Existing plant species, (upland and marine), and effects thereon.
- b. Existing animal species and effects thereon.

- c. Existing wild fowl and other birds and effects thereon.
- d. Effects of drainage and runoff.
- e. Effects on ground water quality.
- f. Effects on surface water quality.
- g. Effects on air quality.
- h. Projected amount and type of traffic to be generated and the effects of the same on public roads and highways.

806.12 IMPACT UPON CRITICAL AREAS

The applicant shall define, describe and identify upon a map, critical areas as defined in Article 2 of this Ordinance. A statement of any potential impact upon critical areas shall be provided by the applicant, including but not limited to adverse impacts which cannot be avoided and/or mitigated as a resulting effect of the development.

806.13 OTHER GOVERNMENTAL JURISDICTION

A list of all licenses, permits and other approvals required by County, State or Federal law and the status of each.

806.14 REVIEW PROCEDURE OF ENVIRONMENTAL IMPACT STATEMENT

- A. Upon receipt of an Environmental Impact Statement, the Board of Supervisors shall promptly forward the Environmental Impact Statement to the Township Planning Commission, the Township Planning Consultant, the Township Engineer and any other agency, firm or individual which the Board of Supervisors may desire for their consultation and input.
- B. The Planning Commission shall review the applicant's Environmental Impact Statement and provide the Board of Supervisors with its comments and recommendations within thirty (30) days from the date of its submission to the Planning Commission.
- C. The Board of Supervisors shall have the discretion to retain the expertise of appropriate parties in their review of the Environmental Impact Statement.
- D. A determination by the Board of Supervisors of a potential adverse environmental impact which may result that cannot be fully mitigated by the applicant shall constitute sufficient basis for the denial of a conditional use permit.

806.15 MITIGATION OF ADVERSE IMPACTS

In the event that any information, data, and/or "Impact Analysis" indicate a projected and/or potential adverse impact, the applicant shall fully mitigate such impact. A determination of a potential adverse impact which may result and cannot be fully mitigated by the applicant shall constitute sufficient basis for the denial of a conditional use permit.

***SUPPLEMENTARY REGULATIONS FOR CERTAIN CONDITIONAL USES.
THESE REGULATIONS ARE IN ADDITION TO THOSE CONTAINED IN
SECTIONS 804 AND SECTION 806 OF THIS ORDINANCE.***

SECTION 807 SOLID WASTE FACILITY

A solid waste facility shall conclusively demonstrate conformance to all of the following items:

- A. The applicant shall provide a comprehensive soil analysis and groundwater report which shall conclusively demonstrate that the proposed design, construction and operation of the solid waste facility shall not pollute surface or groundwater, nor otherwise cause any potential health or environmental hazard. Said report shall be jointly signed and certified by the applicant and the consultant, who prepares the report, attesting to the accuracy of information and the validity of said report.
- B. The applicant shall sign an agreement prepared by the Township Solicitor, prior to final approval of the application for a Conditional Use Permit which shall specify all the terms and conditions of approval, including the Township's authority to revoke the Permit for the violation of any terms and/or conditions under which the application was approved. Prior to formal action to revoke the Conditional Use Permit, the Board of Supervisors shall convene a public hearing, pursuant to public notice, to consider testimony and evidence relative to the alleged violations. Based upon the testimony and evidence provided, the Board of Supervisors shall render a decision.
- C. The land area and/or parcel of land on which the solid waste facility is located shall not exceed twenty-five (25) acres, whether developed initially or cumulatively.
- D. The applicant of a proposed solid waste facility shall provide conclusive evidence, based upon a mining report, soil analysis, test borings and any other appropriate technical data which conclusively demonstrates that the subsurface conditions beneath any area to be utilized as a landfill is capable of sustaining the bearing load of projected and/or planned quantity of material to be deposited and/or disposed of upon the site. The applicant and the person, party or firm providing such evidence shall jointly sign and certify the accuracy and validity of the information and data which is provided as conclusive evidence.

- E. Any application for a Conditional Use Permit for a solid waste facility, which includes the operation of a landfill, shall include a proposed reuse of the property and/or area utilized as a landfill upon the cessation of landfill activities. The proposed reuse of the property shall not be inconsistent with the Community Development Objectives of this Ordinance and land uses, existing and planned, on property which adjoins the site of the Facility.
- F. The applicant shall be required to create an escrow fund to finance the proposed and planned reuse and development of any area utilized as a landfill based upon the projected life expectancy of any area within the solid waste facility which is utilized as a landfill. Such fund shall be funded while the property is still being used for a landfill with annual increment payments. The annual increment payment shall be based upon the estimated cost of the proposed reuse of the site divided by the number of years which the landfill is expected to operate. Such fund shall be separate and distinct from any funding and/or bonding requirement pursuant to closure activities.
- G. A solid waste facility may conduct and operate all approved functional aspects within the Facility from the hours of 7:00 A.M. to 4:00 P.M. from Monday through Friday. Said Facility shall not conduct and/or operate any approved functional aspects associated with the Facility on Saturdays, Sundays and all legally recognized holidays by the federal government and/or the Commonwealth of Pennsylvania.
- H. The entire site of a solid waste facility shall be enclosed with industrial type gauge fencing which shall be ten (10) feet in height. All gates shall be closed and locked at the end of business hours. There shall be no advertising of any kind displayed upon the fence.
- I. No operations and/or activities permitted within a solid waste facility shall be permitted within one thousand (1,000) feet of any property line boundary.
- J. All solid waste facilities and staging areas which store the solid waste at any stage prior to disposal at an approved facility shall maintain the aforesaid solid waste within a completely enclosed building. Storage of materials, supplies or solid waste in motor vehicles, trucks, trailers or other containers normally used to transport the materials shall not be permitted unless the aforesaid motor vehicles, trucks, trailers or other containers shall be stored within a completely enclosed building.
- K. A solid waste facility shall provide for treatment and disposal of all liquid effluent and discharges generated by the facility due to the storage, washing or other process used in treating and/or processing the solid waste. Any water discharge from the facility after being treated by the waste water treatment system shall meet all applicable regulations and requirements of the Pennsylvania Department of Environmental Protection.

- L. All storm water collected on the site shall be treated by the facility's wastewater treatment system. Parking of motor vehicles containing solid waste or motor vehicles which have not been properly cleaned and washed shall only be permitted in completely enclosed buildings, handling areas or parking areas in which containment of spillage, leakage or other contaminants is provided.
- M. The owner and/or operator of any solid waste facility shall be required to monitor the ground and surface water in the vicinity of the facility. Water testing shall be conducted every three (3) months on any stream within 500 feet of any areas used for the storage or disposal of solid waste, if water drainage from the facility is discharged into said stream. For each testing period two (2) testing samples shall be collected: one sample shall be taken from the stream at a point upstream of the facility drainage area and one sample shall be taken from the stream at a point below the facility drainage area. In addition, the well location, if applicable, located on the premises shall also be sampled every three (3) months. All water samples shall be collected and analyzed by an independent party which is a certified water analysis laboratory for hydrocarbons or other parameters deemed appropriate by the Board of Supervisors, and the results shall be provided to the Township. If said samples exceed the limits established by the Pennsylvania Department of Environmental Protection, the facility shall immediately cease operation until such time as the source of the contamination has been identified and totally corrected.
- O. The area or areas upon which any permitted operations and/or activities within a solid waste facility are conducted shall be entirely screened. Such screening shall consist of a variety of evergreen trees, approved by the Board of Supervisors, planted not more than six (6) feet apart and being not less than eight (8') feet in height at the time of planting. Said screening shall be located not greater than three hundred (300) feet from the operations and/or activities which are subject to being screened. The applicant and/or operator of the Facility shall be responsible to maintain such screening, including the replacement of any trees which are damaged, die or otherwise fail to grow.
- P. The applicant shall provide a detailed narrative which fully describes the daily operations of all permitted functions and activities within the proposed solid waste facility, including the projected daily volume and tonnage of refuse being accepted for processing and/or disposal.
- Q. The applicant shall submit to the Board of Supervisors, a copy of their commercial policy of liability insurance covering third party claims for property damage and personal injury.
- R. Vehicular access for ingress, egress and regress to a solid waste facility shall be solely limited to private access roads. Such private access roads shall only have access to a state legislative route with no permitted access to or from any local streets and/or roads.

- S. The owner and or operator of a solid waste facility shall provide an emergency response plan to address potential hazards associated with its operations. Said plan shall be submitted for review and comment to the local fire companies which serve Lehman Township.
- T. Any solid waste facility which processes sludge, prior to its final disposal, shall be designed to include a liner in accordance with the applicable standards of the Department of Environmental Protection for the liner within a proposed landfill.
- U. Any solid waste facility which includes incineration shall be designed and operated in a manner to limit emissions by not less than ten (10%) percent below the applicable allowable emission standards of the Pennsylvania Department of Environmental Protection or the United States Environmental Protection Agency, based upon the more restrictive regulations for reducing and/or limiting air pollution. Any emissions stack or similar structure shall not exceed one hundred (100) feet in height.
- V. The applicant shall in addition to other required information and data provide an "Impact Analysis" that addresses the impact of the proposed operation and activities of a solid waste facility in relationship to the following items:
 - 1. All streets and roads which shall and/or are likely to be utilized for means of access to and from the site, including projected truck traffic which shall be generated in relationship to the projected daily volume of waste being transported to the solid waste facility.
 - 2. The suitability of the site for the proposed operations and activities of the solid waste facility in relationship to the soils, slopes, woodlands, wetlands, flood plains, aquifers, natural resources and other natural features which are located both on-site and off-site of the Facility.
 - 3. The impact, both on-site and off-site, of the proposed operations and activities of the solid waste facility on the soils, slopes, woodlands, wetlands, flood plains, aquifers, natural resources and other natural features regarding the degree to which these are protected or destroyed, the tolerance of these resources to the proposed development and any adverse environmental impacts.
 - 4. The impact of the proposed operations and activities of the Solid Waste Facility upon any locations or structures of historical and/or cultural significance within 3,000 feet of any property line of the facility.

807.2 HOST MUNICIPALITY FEE

A host municipality fee shall be executed between Lehman Township and applicant, owner and/or operator of a solid waste facility prior to the commencement of construction of said Facility.

SECTION 808 EXCAVATION AND EXTRACTION OF MINERALS,
INCLUDING QUARRIES

Excavation and extraction of minerals, as defined in Article 2, shall be considered a temporary use, subject to the following requirements:

- A. Project Narrative: A written report shall be submitted by the applicant that includes the type of minerals proposed to be excavated, extracted, and/or removed from the site, the volume of such material and the maximum length of time associated with the proposed operation based upon the stated volume of material. Said narrative shall also describe normal, daily operational features performed upon the site, including but not limited to, proposed hours of operation, anticipated noise levels, and the type and volume of truck traffic to be generated with the proposed traffic routes to and from the site.
- B. Map: Submission of a map or maps at a scale of not greater than one (1) inch equals fifty (50) feet that outlines the entire property and the proposed area subject to excavation, extraction, and/or removal of minerals. Said map shall indicate existing contours prior to the start of work, and proposed final contours, including the proposed maximum depth of excavation at all points subject to excavation. Said map or maps shall also contain surface features showing the location of buildings, dwellings, places of worship, schools, railroads, highways and public uses within a distance of five hundred (500) feet from the perimeter of the proposed use.
- C. Bond, Backfilling and Fees: The applicant shall provide documentation that all applicable State requirements relative to providing a bond that guarantees the restoration and backfilling of any land proposed to be excavated or otherwise disturbed has been secured.
- D. Insurance: That a Certificate of Insurance evidencing that the quarry operator has general liability insurance with limits of \$500,000 per accident and \$1,000,000 in the aggregate for bodily injury and personal injuries, and \$1,000,000 per accident and in the aggregate for property damage, be filed with the Board of Supervisors; which Certificate shall indicate that Lehman Township is listed as an additional insured on the aforementioned policy for losses arising out of the named insured's operations at the quarry.
- E. Distance Provisions: The perimeter of any excavation under this Section shall not be nearer than one thousand (1,000) feet from any building, property line or street, except that owned by the applicant.
- F. Timing: If blasting is proposed to be included as part of the excavation/extraction process, such approval must be specifically granted by the Lehman Township Board of Supervisors as an element of the Conditional Use approval. Blasting, if permitted by the Township Board of Supervisors, shall occur only between the hours of 9:00 A.M. and 4:00 P.M. local time excluding Saturdays, Sundays and the following holidays:

January 1st
Memorial Day
July 4th
Labor Day
Thanksgiving
Christmas

All blasting shall be in accordance with regulations promulgated by the Pennsylvania Department of Environmental Protection. The applicant shall provide the Township with not less than a seventy-two (72) hour advance notice.

- G. Location of Processing Equipment: To reduce airborne dust, dirt and noise, all structures for sorting, crushing, grinding, loading, weighing, washing and other operations shall be not less than one thousand (1000) feet from the right-of-way of any street, and/or one thousand (1000) feet from any residential building or the boundary of a residential zoning district.
- H. Drainage: All excavations both during operations and after completion shall be drained to prevent the formation of pools of water. Adequate measures shall be documented and approved as part of the application process. Said measures shall be implemented prior to any excavation operation.
- I. Limitation on Land Area: At any given time, the active excavation/extraction areas shall not exceed ten (10) acres in area on any lot or tract of land. Additional areas may be approved on the completion and cessation of previous approvals.
- J. Compliance with State Requirements: Final and/or unconditional approval for excavation, extraction and/or minerals under the provisions of this Ordinance shall not be issued until the applicant documents that all required licenses and/or permits have been properly secured from the applicable State and /or Federal agencies, including but not limited to the Pennsylvania Department of Environmental Protection.

SECTION 809 WIND ENERGY FACILITY

A. INFORMATION TO BE SUBMITTED

The applicant for a Wind Energy Facility shall be required to submit the following information:

- The applicant and landowner's name and contact information. Please note that the Conditional Use Application must be signed by both the applicant and the landowner, regardless of any equitable interest or other documentation held by the applicant. Failure to provide an application bearing both signatures will be deemed to be an incomplete submission and shall represent a basis for denying the application.

- The tax map numbers, existing use and acreage of the site parcel.
- A copy of the deed to the property.
- A narrative describing the proposed Wind Energy Facility, including an overview of the project; the project location; the generating capacity of the Wind Energy Facility; the number, representative types and height of Wind Turbines to be constructed, including their generating capacity, dimensions and respective manufacturers, and a description of ancillary facilities.
- A survey map at an appropriate scale showing the proposed location of the wind energy facility (including access roads) as it relates to the boundaries of the parcel, adjacent ownerships and existing residences, schools, churches, hospitals, libraries, federal, state, county or local parks, and recognized historic or heritage sites within a distance of 2,000 feet or less from any property boundary.
- Standard drawings of the wind turbine structure, including the tower, base and footings, drawings of access roads, and including an engineering analysis and certification of the Wind Turbine, showing compliance with the applicable building code.
- The make, model, picture and manufacturer's specifications, including noise decibels. Data pertaining to the Wind Turbine's safety and stability, including safety results from test facilities. The design of the Wind Energy Facility shall conform to applicable industry standards, including those of the American National Standards Institute. The Applicant shall submit certificates of design compliance obtained by the equipment manufacturers from Underwriters Laboratories, Det Norske Veritas, Germanischer Lloyd Wind Energies, or other similar certifying organizations.
- A completed Environmental Impact Statement in accordance with Section 806 of this Ordinance.
- A project visibility map, based on a digital elevation model, showing the impact of topography upon visibility of the project from other locations, to a radius of three miles from the center of the project. The scale used shall depict the three-mile radius as no smaller than 6 inches, and the base map used shall be a published topographic map showing man-made features, such as roads and buildings.
- No fewer than four, and no more than the number of proposed individual wind turbines, plus three color photos, no smaller than 8" by 10", taken from locations within a three-mile radius from the site and to be selected by the Township Council, and computer-enhanced to simulate the appearance of the as-built site facilities as they would appear from these locations.
- Copies of all proposed leases required to be secured by the applicant, shall be provided, if the applicant is not the sole owner of the parcel or parcels on which

the Wind Energy Facility is proposed to be constructed. Boundaries of said leases shall be clearly illustrated upon the site plan.

- Copies of all easements, existing and proposed upon the site shall be provided by the by the applicant. Said easements shall be clearly illustrated upon the site plan.
- Identification of the properties on which the proposed Wind Energy Facility will be located, and the properties adjacent to where the Wind Energy Facility will be located, including the name and mailing address of the owners of record.

B. APPROVAL STANDARDS

In addition to all other applicable criteria and requirements for approval of a conditional use as set forth in Article 6, the following standards shall apply:

- The minimum distance between the ground and any part of the rotor blade system shall be thirty (30) feet.
- To limit unauthorized access, a fence eight feet high with a locking portal shall be placed around the base of the tower of a wind turbine. Towers shall be constructed to provide one of the following means of access control, or other appropriate method of access:
 - Tower-climbing apparatus located no closer than 15 feet from the ground.
 - A locked anti-climb device installed on the tower.
- Wind energy facilities shall not be artificially lighted, except to the extent required by the FAA or other applicable authority.
- All wind turbines shall have an automatic braking, governing or feathering system to prevent uncontrolled rotation, overspeeding and excessive pressure on the tower structure, rotor blades and turbine components. Mechanical brakes shall be operated in a fail-safe mode. Stall regulation shall not be considered a sufficient braking system for overspeed protection.
- All power transmission lines from a wind turbine to on-site substations shall be underground.
- Prior to issuance of a building permit, the applicant shall provide the Township proof of a level of insurance to be determined by the Township Council in consultation with the Township's insurer, to cover damage or injury that might result from the failure of a tower or towers of a wind turbine or any other part or parts of the generation and transmission facility. Said insurance must be maintained for the life of the Wind Energy Facility, until such time that all components of the Wind Energy Facility are decommissioned and/or removed.

- Appropriate warning signs shall be posted. At least one sign shall be posted at the base of the tower warning of electrical shock or high voltage. A sign shall be posted on the entry area of fence around each Wind Turbine or group of towers and any building, containing emergency contact information, including a local telephone number with 24 hour, 7 days a week coverage.
- Any Wind Energy Facility found to be unsafe by the local enforcement officer or agent of the Township shall be repaired by the owner to meet federal, state and local safety standards or removed within six months. If any Wind Energy Facility is not operated for a continuous period of 12 months, the Township will notify the landowner by registered mail and provide 45 days for a response. In such a response, the landowner shall set forth reasons for the operational difficulty and provide a reasonable timetable for corrective action. If the Township deems the timetable for corrective action as unreasonable, they must notify the landowner and such landowner shall remove the turbine within 120 days of receipt of notice from the Township.
- The owner of a Wind Energy Facility shall have it inspected at least every two years for structural and operational integrity by a licensed professional engineer, and shall submit a copy of the inspection report to the Township. If such report recommends that repairs or maintenance are to be conducted, the owner shall provide written to the Township with a written schedule for the repairs or maintenance.
- A Wind Energy Facility shall comply with all applicable provision under the Pennsylvania Uniform Construction Code and shall secure a building permit from Lehman Township.

C. SITING AND INSTALLATION:

A Wind Energy Facility shall:

- Use existing roads to provide access to the facility site, or if new roads are needed, minimize the amount of land used for new roads and locate them so as to minimize adverse environmental impacts.
- Combine transmission lines and points of connection to local distribution lines.
- Connect the facility to existing substations, or if new substations are needed, minimize the number of new substations.
- All wiring between wind turbines and the wind energy facility substation shall be underground.
- The wind power generation facility, if interconnected to a utility system, shall meet the requirements for interconnection and operation as set forth in the electric utility's then current service regulations applicable to wind power generation facilities and shall provide evidence of a signed interconnection agreement, or

letter of intent, with the interconnecting utility company.

D. SETBACKS:

- The minimum setback distance between each wind turbine and overhead utility or transmission lines, other wind turbine, electrical substations, meteorological towers, and public roads shall be equal to no less than 1.1 times the sum of proposed structure height plus the rotor radius.
- The minimum setback distance for each wind turbine to any property line shall be not less than 1,500 feet.
- The minimum setback distance for each wind turbine to off-site structures shall be not less than five (5) times the Hub Height, as measured from the center of the Wind Turbine base to the nearest point on the foundation of an off-site structures or 1,500 feet, whichever is greater.
- All Wind Turbines shall be set back from the nearest public road a distance of not less than 1.1 times the Turbine Height, as measured from the right-of-way line of the nearest public road to the center of the Wind Turbine base.
- Each wind turbine shall be set back from the nearest above-ground public electric power line or telephone line a distance no less than 1.1 times its total height, determined from the existing power line or telephone line.

E. NUISANCE ISSUES:

- Individual Wind Turbines shall be located so that the level of noise produced by Wind Turbine operation shall not exceed 50 dBA, measured at all points of the site's property line. Methods for measuring and reporting acoustic emissions from Wind Turbines and the Wind Energy Facility shall be equal to or exceed the minimum standards for precision described in AWEA Standard 2.1 - 1989 titled Procedures for the Measurement and Reporting of Acoustic Emissions from Wind Turbine Generation Systems Volume I: First Tier.
- No individual Wind Turbine shall be installed in any location where its proximity with fixed broadcast, retransmission or reception antenna for radio, television or wireless phone or other personal communications systems would produce electromagnetic interference with signal transmission or reception.
- Reasonable efforts shall be made to preclude shadow flicker to any Building on a Non-participating Landowner's property.

F. ENVIRONMENTAL AND VISUAL:

- Wind Energy Facilities shall not be used for displaying any advertising except for

reasonable identification of the manufacturer or operator of the wind energy facility.

- The design of the wind turbines buildings and related structures shall, to the extent reasonably possible, use materials, colors, textures, screening and landscaping that will blend the facility into the natural setting and existing environment.
- Where wind characteristics permit, wind turbines shall be set back from the tops of visually prominent ridgelines to minimize the visual contrast from any public access.
- The maximum Turbine Height, as so defined in this Ordinance, shall not exceed 300 feet.
- Wind Turbines shall be designed and located to minimize adverse visual impacts from neighboring residential areas, to the greatest extent feasible.
- Avoid, to the extent practicable, the creation of artificial habitat for raptors or raptor prey, such as a) electrical equipment boxes on or near the ground that can provide shelter and warmth, b) horizontal perching opportunities on the towers or related structures or c) soil where weeds can accumulate.
- A Wind Turbine shall be set back at least 1,500 feet from any bodies of water including but not limited to lakes, ponds, streams, creeks and rivers. The above setback distance may be altered based upon the findings under Section 806, Environmental Impact Statement of this Ordinance.
- All reasonable efforts shall be made to avoid development of sites which contain wetlands. Wind turbine shall be set back of not less than 1.1 times the Turbine Height, from identified wetlands and its delineated boundaries. The above setback distance may be altered based upon the findings under Section 806, Environmental Impact Statement of this Ordinance.
- Wind Energy Facilities shall provide conclusive documentation that the location and operation of the proposed facility will not adversely affect the wild life habitat, including but not limited to bats and birds of the region and associated migration routes. Comments from any State and/or Federal Agency having a jurisdictional review or stewardship over the protection of wildlife shall be required.

G. DECOMMISSIONING AND RESTORATION REQUIREMENTS

A Wind Energy Facility and all related components necessary for its operation shall be removed from the site upon its cessation of use. The applicant shall include the following information regarding decommissioning and removal of the a Wind Energy Facility and restoring the site:

1. The anticipated and/or estimated life of the project;
2. The estimated decommissioning costs in current dollars;
3. The method and schedule for updating the costs of decommissioning and restoration;
4. The method of ensuring that funds will be available for decommissioning and restoration; and
5. The anticipated manner in which the project will be decommissioned and the site restored.
6. The Board of Supervisors shall require the applicant to provide an appropriate and adequate demolition bond for purposes of removing the commercial communications tower in case the applicant fails to do so as required above. Proof of this bond shall be provided each year and shall be a continuing condition for the life of the project.
7. The sufficiency of the demolition bond shall be confirmed at least every five years by an analysis and report of the cost of removal and property restoration to be performed by a licensed professional engineer, the cost of same to be borne by the applicant. If said analysis and report determines that the amount of the bond in force is insufficient to cover the removal, disposal and restoration costs, the bond shall be increased to the amount necessary to cover such costs within 10 days of the applicant's receipt of such report.

SECTION 810 SMALL WIND ENERGY CONVERSION SYSTEM ("Small WECS")

1. DESIGN AND INSTALLATION

A. Design Safety Certification

The design of a Small WECS shall conform to applicable industry standards, including those of the American National Standards Institute. The Applicant shall submit certificates of design compliance obtained by the equipment manufacturer's from Underwriters Laboratories, Det Norske Veritas, Germanischer Lloyd Wind Energies, or other similar certifying organizations.

B. All components of a small WECS shall be designed and constructed to be in compliance with pertinent provisions of the Pennsylvania Uniform Construction Code Uniform. Building Code.

C. Controls and Brakes

A small WECS shall be equipped with a redundant braking system. This includes both aerodynamic overspeed controls (including variable pitch,

tip, and other similar systems) and mechanical brakes. Mechanical brakes shall be operated in a fail-safe mode. Stall regulation shall not be considered a sufficient braking system for overspeed protection.

D. Electrical Components

All electrical components of a small WECS shall conform to relevant and applicable local, state, and national codes, and relevant and applicable international standards.

The maximum turbine power output shall be limited to 10 KW.

All on-site electrical wiring associated with the system shall be installed underground except for "tie- ins" to a public utility company and public utility company transmission poles, towers and lines.

A Small WECS shall not cause disruption or loss of radio, telephone, television or similar signals, and shall be required to mitigate any harm caused by the operation of the system.

At least one sign shall be posted on the tower at a height of five feet warning of electrical shock or high voltage and harm from revolving machinery. No brand names, logo or advertising shall be placed or painted on the tower, rotor, or generator where it would be visible from the ground, except that a system or tower's manufacturer's logo may be displayed on a system generator housing in an unobtrusive manner.

Anchor points for any guy wires for a small WECS shall be located within the property that the system is located on and not on or across any above ground electric transmission or distribution lines. The point of attachment for the guy wires shall be enclosed by a fence six feet high or sheathed in bright orange or yellow covering from three to eight feet above the ground.

2. VISUAL APPEARANCE

A visual analysis of a small WECS as intended to be installed shall be provided with conditional use. The visual analysis shall include a computerized photographic simulation, demonstrating the visual impacts from nearby strategic vantage points.

Exterior lighting on any structure associated with the system shall not be allowed except that which is specifically required by the Federal Aviation Administration.

A small WECS's tower and blades shall be painted a non-reflective, unobtrusive color that blends the system and its components into the surrounding landscape to the greatest extent possible and incorporate non-reflective surfaces to minimize any visual disruption.

A small WECS shall be designed and located in such a manner to minimize adverse visual impacts from public viewing areas (e.g., public parks, roads, trails). To the greatest extent feasible, the system:

- shall not project above the top of ridgelines.
- shall be screened to the maximum extent feasible by natural vegetation or other means to minimize potentially significant adverse visual impacts on neighboring residential areas.

3. LOT SIZE, SETBACK AND HEIGHT REQUIREMENTS:

A small WECS shall be located on a lot with a minimum size of not less than two (2) acres.

The maximum turbine height for a small WECS shall be as follows:

- 65 feet on parcels between two and five acres.
- 80 feet on parcels of five or more acres.

Setback requirements. A small WECS shall not be located closer to a property line than two and a half (2.5) times the turbine height as measured from the center of the base and/or concrete pad to which it is attached.

Only one small WECS per legal lot shall be allowed.

4. CLIMB PREVENTION/LOCKS

Towers shall be constructed to provide one of the following means of access control, or other appropriate method of access:

- Tower-climbing apparatus located no closer than 15 feet from the ground.
- A locked anti-climb device installed on the tower.

A locked, protective fence at least six feet in height shall enclose the tower and electrical equipment to prevent entry by non-authorized persons.

5. NOISE AND SHADOW FLICKER

Audible sound from a Small WECS shall not exceed fifty (50) dBA, as measured at the exterior of any Occupied Building on a Non-participating Landowner's property. Methods for measuring and reporting acoustic emissions from the operations of a Small WECS shall be equal to or exceed the minimum standards for precision described in AWEA Standard 2.1 - 1989 titled *Procedures for the Measurement and Reporting of the Acoustic Emissions from Wind Turbine Generation Systems Volume I: First Tier*.

Reasonable efforts shall be made to preclude shadow flicker to any Occupied Building on a Non-participating Landowner's property.

6. ABANDONMENT

A Small WECS which is not used for twelve (12) successive months shall be deemed abandoned and shall be dismantled and removed from the property at the expense of the property owner.

SECTION 811 JUNKYARDS AND/OR AUTOMOTIVE WRECKING YARDS

All new junk yards and automotive wrecking yards, or the proposed expansion of an existing junk yard and automotive wrecking yard, shall comply with the following:

- A. Such premises shall at all times be maintained so as not to constitute a nuisance or menace to the health of the community or residents nearby or a place for the breeding of rodents and vermin.
- B. Burning of any materials shall be prohibited.
- C. No oil, grease, tires or gasoline shall be burned at any time.
- D. No garbage, organic waste, rubbish, toxic materials and hazardous materials shall be stored on such premises.
- E. Whenever any motor vehicle shall be received on such premises as junk, all gasoline, oil, antifreeze, transmission fluid and/or other toxic fluid or hazardous material shall be drained and/or removed said vehicles and disposed of in a manner consistent with the applicable rules and regulations of the Pennsylvania Department of Environmental Protection.
- F. The storage of any combustible materials, such as gasoline, oil or related items, shall be placed in fireproof containers and stored within fireproof sheds.
- G. The manner of storage and arrangement of junk and the drainage facilities on the site shall be such as to prevent the accumulation of stagnant water upon the premises. A storm water drainage plan shall be required.
- H. There shall be no stockpiling of motor vehicles or any junk piled higher than four (4) feet.
- I. Fire lanes of a minimum width of twenty (20) feet in width shall be provided for every forty (40) linear feet of junk, which shall be kept open and unobstructed for proper access for fire fighting equipment and safety purposes.

- J. Junk shall not be stored within one hundred (100) feet of any adjoining property line or nearer than one hundred (100) feet to any adjoining or abutting street.
- K. All junkyards shall be completely screened from view on all sides by a buffer area as so defined in Article 2 of this Ordinance. The required fence shall be not closer than ten (10) feet to any property line.
- L. Every structure erected upon the premises and used in connection therewith shall be of fireproof construction.
- M. All premises shall, at all times, be maintained so as not to constitute a nuisance, or a menace to the health, safety, and welfare of the community or to the residents nearby, or a place for the breeding of rodents and vermin.
- N. Such premises may be open for business or any work in connection with the storage, processing and transportation or removal of junk only on Monday, through Saturday from 8:00 A.M. to 4:00 P.M., local time.

SECTION 812 SEXUALLY ORIENTED BUSINESS

Sexually Oriented Bookstore: An establishment that has as a substantial portion of its stock-in-trade and offers for sale, for any form of consideration, any one or more of the following: (1) books, magazines, periodicals, or other printed matter, or photographs, films, motion pictures, video cassettes, slides, or other visual representations that are characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas; or (2) instruments, devices, or paraphernalia that are designed for use in connection with specified sexual activities.

Sexually Oriented Entertainment: A nightclub, bar, restaurant, club or similar establishment that regularly features live performances that are characterized by the exposure of specified anatomical areas or by specified sexual activities, or films, motion pictures, video cassettes, slides, or other photographic reproductions in which a substantial portion of the total presentation time is devoted to the showing of material that is characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas.

Massage Parlor: An establishment where, for any form of consideration, massage, alcohol rub, fomentation, electric or magnetic treatment, or similar treatment or manipulation of the human body is administered, unless such treatment or manipulation is administered by a medical practitioner, chiropractor, acupuncturist, physical therapist, or similar professional person licensed by the state. This definition does not include an athletic club, health club, school, gymnasium, reducing salon, spa, or similar establishment where massage or similar manipulation of the human body is offered as an incidental or accessory service.

Specified Anatomical Areas: Specified anatomical areas, as used above within the definitions of “Sexually Oriented Bookstore” and “Sexually Oriented Entertainment” means and includes any of the following: (1) less than completely and opaquely covered human genitals, pubic region, buttocks, anus, or female breasts below a point immediately above the top of the areolae; or (2) human male genitals in a discernibly turgid state, even if completely and opaquely covered.

Specified Sexual Activities: Specified sexual activities as used above within the definitions of “Sexually Oriented Bookstore” and “Sexually Oriented Entertainment” means and includes any of the following: (1) the fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts; (2) sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy; (3) masturbation, actual or simulated; or (4) excretory functions as part of or in connection with any of the activities set forth as a "Sexually Oriented Business".

SECTION 813 COMMERCIAL COMMUNICATION TOWER

A. STRUCTURAL INTEGRITY AND SAFETY

1. A commercial antenna and support structure for a wireless commercial communication site shall be designed and constructed to meet or exceed all applicable standards of the American National Standards Institute, NSI/EPA-222-E manual, as amended and also to FAA standards for marking and lighting requirements of obstructions to air navigation as set within the most recent edition of Advisory Circular AC 70/7460-1H including any amendments thereto
2. A soil report complying with the standards of Appendix I: Geotechnical Investigations, ANSI/EIA-222-E manual, as amended, shall be submitted to document and verify the design specifications of the foundation for the commercial antenna and support structure, and anchors for the guy wires, if used.
3. The operational use of a commercial antenna, as so defined within this Ordinance, including those mounted upon a support structure or to an existing structure, shall comply with all applicable rules and regulations of the FCC and the FAA.
4. The applicant or owner of a commercial antenna and support structure shall provide a design certificate and an operational certificate, prepared by a professional engineer, which certifies compliance with the standards addressed in the above items A, B and C. The design certificate shall be submitted with the Zoning Application for the proposed commercial antenna and support structure. The operational certificate shall include “as-built” drawings and written certification from the applicant’s professional engineer that all applicable regulations have been met.

B. HEIGHT AND SETBACK REQUIREMENTS

1. A commercial antenna when mounted upon an existing structure, including an existing building, shall not exceed the height of the existing structure by more than eight (8) feet.
2. Any building utilized as a component of a commercial enterprise in the collection and/or transmission of telecommunication signals, radio signals, television signals, wireless phone signals or similar signals shall be completely enclosed by a fence, eight (8) feet in height, with such building meeting the setback requirements for the zoning district in which it is located.
3. The applicant shall demonstrate, using technological evidence, that the commercial antenna and support structure must be located where it is being proposed and that it represents the minimum height required to function satisfactorily.
4. A commercial antenna and support structure shall be designed with excess capacity beyond the initial intended use in order to encourage secondary users to lease the balance of the capacity at reasonable rates. When a new antenna and support structure is proposed, the applicant must demonstrate that all alternatives to the construction of a new antenna support structure have been exhausted.
5. All commercial antennas shall be designed to comply with FAA approved warning lights.
6. A commercial antenna and support structure or an antenna mounted upon an existing structure shall be removed by the owner of the same within six (6) months of the discontinuance of its use. The owner shall provide Lehman Township with a copy of the notice to the FCC of intent to cease operations. The six month period for the removal of the antenna and support structure or an antenna mounted upon an existing structure shall commence on the date indicated for ceasing operations.

C. SITE PLANS

1. A site plan in conformance with the governing standards of the Lehman Township Subdivision and Land Development Ordinance, as amended, shall also be required when the location of a free-standing commercial antenna and support structure represents a described parcel of land subject to a lease, within an existing deed of record.
2. A new site plan shall not be required when a proposed antenna is to be located on an existing free-standing commercial antenna support structure or a public utility transmission tower.

D. SUPPLEMENTAL STANDARDS AND CRITERIA

1. The applicant shall demonstrate that the proposed commercial antenna and support structure complies with all applicable State and Federal standards.
2. The applicant shall demonstrate that the proposed commercial antenna and its support structure are safe and the surrounding properties will not be negatively affected by support structure failure, falling ice or other debris.
3. All support structures shall be fitted with anti-climbing devices, as approved by the manufacturers.
4. A commercial antenna and support structure shall be designed with excess capacity beyond the initial intended use in order to encourage secondary users to lease the balance of the capacity at reasonable rates. When a new antenna and support structure is proposed, the applicant must demonstrate that all alternatives to the construction of a new antenna support structure have been exhausted.

E. DECOMMISSIONING AND RESTORATION REQUIREMENTS

A commercial communication tower shall be removed from the site upon its cessation of use. The applicant shall include the following information regarding decommissioning and removal of the commercial communications tower and restoring the site:

1. The anticipated and/or estimated life of the project;
2. The estimated decommissioning costs in current dollars;
3. The method and schedule for updating the costs of decommissioning and restoration;
4. The method of ensuring that funds will be available for decommissioning and restoration;
5. The anticipated manner in which the project will be decommissioned and the site restored.
6. The Board of Supervisors shall require the applicant to provide an appropriate and adequate demolition bond for purposes of removing the commercial communications tower in case the applicant fails to do so as required above. Proof of this bond shall be provided each year and shall be a continuing condition for the life of the project.
7. The sufficiency of the demolition bond shall be confirmed at least every five

years by an analysis and report of the cost of removal and property restoration to be performed by a licensed professional engineer, the cost of same to be borne by the applicant. If said analysis and report determines that the amount of the bond in force is insufficient to cover the removal, disposal and restoration costs, the bond shall be increased to the amount necessary to cover such costs within 10 days of the applicant's receipt of such report.

SECTION 814 BULK FUEL STORAGE

Bulk fuel storage shall be located on a tract of land not less than five (5) acres. Storage tanks shall be located not less than one hundred (100) feet from any property line and shall be not less than five hundred (500) feet from any dwelling, school, church or similar use. Cylinder filling rooms, pumps, compressors and truck filling stations shall be located two hundred fifty (250) feet from all property lines. The tank storage area shall be fenced with an eight (8) feet high industrial gauge fence. If the storage property abuts on the side or rear property line containing a residence, the fence shall be screened from view by a dense growth of evergreens at least five (5) feet in height at the time of planting. Bulk fuel storage facilities shall be developed in full compliance with all applicable federal, state and insurance regulations.

SECTION 815 MOBILE HOME PARKS

The standards and regulations provided herein shall apply to both the development of new mobile home parks and the expansion of existing ones. The development of a mobile home park, including the expansion of an existing one, shall also be deemed as a subdivision or land development and shall be subject to applicable regulations of the Township's Subdivision and Land Development Ordinance. Customary accessory residential uses shall be permitted, along with common areas for use by residents of the mobile home park.

SECTION 816 CAMPGROUNDS AND RECREATIONAL VEHICLE PARKS

The following design standards shall apply to the above uses:

- Campgrounds And Recreational Vehicle Parks shall require a minimum lot size of not less than 20 (twenty) acres.
- The spaces or campsites shall be not less than thirty-five (35) feet wide or less than 2,400 square feet in area for each vehicle exclusive of streets and other public areas. The density of the park shall not exceed eight (8) spaces/campsites per acre.
- Campgrounds and/or Recreational Vehicle Parks must meet all Department of Environmental Protection specifications in regard to toilet facilities, sewage dumping facilities and, water facilities.
- No campsite shall be located within two hundred (200) feet of any property line.

- No permanent structure shall be located within one hundred (100) feet of any property line
- There shall be one or more recreation areas which shall be easily accessible to all park residents. The size of such recreation area shall be based upon a minimum of two hundred (200) square feet per each approved campsite or lot.

SECTION 817 DETENTION FACILITIES

The following design standards shall apply to any type of institution which meets The definition of a Detention Facility as defined in Article 2.

- A Detention Facility shall require a minimum lot size of not less than twenty five (25) acres.
- All buildings and secure areas shall not be less than five hundred (500) feet from any property line.

ARTICLE 9
SUPPLEMENTAL REGULATIONS

SECTION 901 PURPOSE AND INTENT

Certain uses of land and/or buildings, as specified herein, whether permitted by right, special exception and or conditional use, shall be subject to supplemental regulations in addition to those of the district in which the use is located.

SECTION 902 USE REGULATIONS

902.01 ANIMAL HOSPITAL

An animal hospital shall maintain all activities within a completely enclosed soundproof building, and no objectionable odors shall be vented outside the building. No animal hospital shall be located less than one-hundred (100) feet from any property line.

902.02 ANIMAL KENNELS

Animal kennels in which animals are kept, boarded or trained may be either enclosed buildings or a combination of buildings and open runways. If all activities are maintained within a completely enclosed building, no objectionable odors shall be vented outside the building. If open runways are used, the required minimum lot size shall be located upon a lot containing not less than 5 acres. All building and runways shall be located not less than one hundred (100) feet from all property lines. Where the property abuts a district having residences as a principal permitted use, the building and runways shall be not less than two hundred (200) feet from such property lines.

902.03 AUTOMOBILE RELATED ACTIVITIES

- A. Automotive Repairs (Repair Garage): Activities including the repair of automobiles, trucks, snowmobiles and motorcycles shall be conducted within a completely enclosed building where adequate measures shall be taken to minimize noise, vibrations, fumes and glare. Said buildings shall be equipped with oil containment facilities/equipment which shall prohibit any oil from being discharged upon the ground or into streams, aquifers and/or environment. Refuse and/or waste oil shall be removed from site with disposal required in accordance with governing standards of the Pennsylvania Department of Environmental Protection. Only vehicles to be repaired on the premises or picked up by the vehicles' owner may be stored in the yard area. Where the operation abuts on the side or rear property line of any district having residences as a principal permitted use, a solid wall or solid opaque fencing eight (8) feet in height, designed to conceal and screen the automotive repair facility from adjoining properties, shall be constructed and maintained in good condition along such boundary. Outdoor trash dumpsters shall be concealed within an area surrounded by a solid opaque fencing not less than six (6) feet in height. The provision of any outside lighting shall be directed away from adjacent properties.

- B. Automotive Sales: Where the operation of an automotive sales use abuts on the side or rear property line of any district having residences as a principal permitted use, a solid wall or solid opaque fencing eight (8) feet in height, designed to conceal and screen the automotive sales facility from adjoining properties, shall be constructed and maintained in good condition along such boundary. Outdoor trash dumpsters shall be concealed within an area surrounded by solid opaque fencing not less than six (6) feet in height. The provision of any outside lighting shall be directed away from adjacent properties.
- C. Gasoline Service Stations (Also Includes Convenience Stores With Gasoline Sales): When a service station abuts on the rear or side lot line on the side or rear property line of any district with residences as a principal permitted use, a solid wall or solid opaque fencing eight (8) feet in height, designed to conceal and screen the gasoline service station from adjoining properties, shall be constructed and maintained in good condition along such boundary. Outdoor trash dumpsters shall be concealed within an area surrounded by solid opaque fencing not less than six (6) feet in height. The provision of any outside lighting shall be directed away from adjacent properties. When a service station occupies a corner lot, the access driveways shall be located at least sixty (60) feet from the intersection of the front and side street lines of the lot. All access driveways shall not exceed twenty-five (25) feet in width. Gasoline pumps or other service appliances and canopies may be located in the required front yard subject to having a setback of not less than twenty feet from the right-of-way line of the adjoining road. All repairs, service, storage or similar activities in connection with the use shall be conducted within the building where adequate measures shall be taken to minimize noise, fumes and glare. Outside lighting shall be directed away from adjacent properties
- D. Car Wash: Appropriate drainage facilities for washing activities shall be provided. The facility shall be designed with a water reclamation system. The site shall be sufficiently large to accommodate three (3) cars per stall waiting washing during peak periods so that lines along public streets are avoided. Such operations shall also comply with any applicable regulations of the Pennsylvania Department of Environmental Protection. Car wash operations abutting on the side or rear property lines of a district having residences as a principal permitted use shall provide a solid wall or solid opaque fencing eight (8) feet in height and well maintained along such boundary. Outdoor trash dumpsters shall be concealed within an area by solid opaque fencing, not less than six (6) feet in height. Outdoor lighting shall be directed away from adjacent properties.

902.04 BANKS

Banks and other similar financial offices shall provide sufficient space to accommodate parking, vehicular circulation areas for drive-in tellers, access areas for parking lots separated from drive-in areas, and areas for pedestrian traffic separated from vehicular traffic for safety. Access driveways shall be no more than twenty-five (25) feet in width. Canopies over drive-through areas shall meet all yard setback requirements.

902.05 BED AND BREAKFAST

A Bed and Breakfast shall be within an owner occupied dwelling containing not more than three (3) bed and breakfast units which are rented on a nightly basis for periods of normally not more than a week. Dining and other facilities shall not be open to the public, but shall be exclusively for the use of the residents and registered guests. Breakfast shall be the only meal served. Two off street parking spaces shall be provided for each rental unit.

902.06 BOARDING/ROOMING HOUSE

The property shall be limited to providing lodging for not more than four (4) persons, excluding the owner of the property. Off-street parking spaces shall be provided for each person residing therein.

902.07 CEMETERIES

The property shall not be less than ten (10) acres. A structure, grave or place of permanent burial shall be set back not less than fifty (50) feet from the property line. The cemetery shall be enclosed along all boundaries by a fence, wall or shrubbery, or any combination thereof, at least four (4) feet in height. The interior roads shall have a minimum width of fifteen (15) feet and shall be properly maintained with either gravel or paving.

902.08 CLUB/PRIVATE LODGE

Buildings utilized for such purposes shall not be less than forty (40) feet from any property line. Where the use abuts on the rear or side lot line of any district with residences as the principal permitted use, a solid wall or solid opaque fencing not less than six (6) feet in height, designed to conceal and screen the use from adjoining properties, shall be constructed and maintained in good condition along such boundary. Outdoor trash dumpsters shall be concealed within an area surrounded by solid opaque fencing not less than six (6) feet in height. The provision of any outside lighting shall be directed away from adjacent properties.

902.09 CONTRACTORS' STORAGE YARDS

Commercial or industrial uses utilizing outdoor storage space of more than 1,000 square feet, shall be located on a tract of land not less than two (2) acres. Supplies stored outdoors shall be neatly arranged and no required yard setback areas shall be used for storage. There shall be a roadway fourteen (14) feet in width provided for every forty linear (40) feet of stored materials. The roadway shall be kept passable for fire-fighting equipment. Where the operation abuts on the rear or side lot line on the side or rear property line of any district having residences as the principal permitted use, a solid wall or solid opaque fencing eight (8) feet in height, designed to conceal and screen the outdoor storage areas from adjoining properties, shall be constructed and maintained in good condition along such boundary. Outdoor trash dumpsters shall be concealed within an area surrounded by solid opaque fencing not less than six (6) feet in height. The provision of any outside lighting shall be directed away from adjacent properties.

902.10 DAY CARE FACILITIES

All day care facilities shall comply with the following:

- A. The applicant or owner shall provide evidence of certification of compliance with all appropriate regulations of any designated State agency whose approval and/or license is required by the laws of the Commonwealth.
- B. Noise and all other possible disturbing aspects connected with such use shall be controlled to the extent that the operation of such use shall not unduly interfere with the use and enjoyment of properties in the surrounding area.
- C. All day care facilities shall have an outdoor play area which shall be completely enclosed with a fence six (6') feet in height. Outdoor play activities shall be limited to the hours between 10:00 A.M. to 5:00 P.M. local time. The minimum area of said play area shall be three-hundred (300) square feet or ten (10) square feet per child, whichever is greater.
- D. The applicant shall supply evidence that vehicular traffic congestion will be avoided in "pick-up and drop-off points" utilized in transporting individuals to and from the facility.

902.11 DWELLING OVER OR ATTACHED TO A BUSINESS

A dwelling unit over or attached to business establishments may be permitted provided that such dwelling is occupied by the owner or manager of such business. Said dwelling unit shall be designed as living quarters with private access, having adequate natural light and kitchen and bathroom facilities. The required off-street parking shall include residence parking spaces in addition to commercial parking spaces as required by Article 12.

902.12 ENTERTAINMENT FACILITIES

Entertainment facilities as defined in Article 2 of this Ordinance shall provide proper parking areas with vehicular circulation and access designed to minimize any potential traffic congestion. Such facilities shall not be closer than fifty (50) feet from any boundary of a district having residences as principal permitted use, shall provide adequate screening from any residential district, and shall be conducted entirely within an enclosed structure.

902.13 FORESTRY ACTIVITIES (TIMBER HARVESTING)

In order to preserve forests and the environmental and economic benefits that they provide, it is the policy of Lehman Township to encourage the owners of forest land to continue to use their land for forestry purposes, including the long-term production of timber, recreation, wildlife, historical and amenity values. The timber harvesting regulations set forth in this Section are intended to further this policy by:

- 1. promoting good forest stewardship;

2. protecting the rights of adjoining property owners;
3. minimizing the potential for adverse environmental impacts;
4. preserving historical and environmental sensitive areas; and
5. avoiding unreasonable and unnecessary restrictions of the right to practice forestry.

“Forestry activities that include timbering operations that exceed five (5) acres shall be conducted in accordance with the following requirements:

1. A Zoning Permit Application shall be submitted to the Lehman Township Zoning Officer prior to harvesting or otherwise removing trees on any tract of land larger than five (5) acres;
2. Prior to the start of operations, a Forestry Management Plan shall be prepared and filed with the submission of the Zoning Permit Application. Said plan shall be prepared by a qualified forester or forest technician, with a four year degree from an accredited college;
3. The Forestry Management Plan shall be consistent with the Timber Harvesting Guidelines of the Pennsylvania Forestry Association;
4. Prior to the approval of the Zoning Permit Application, an Erosion and Sediment Control Plan shall be submitted by the Applicant to the Luzerne County Conservation District for its review, recommendation and approval;
5. Clear cutting shall be prohibited except on tracts of less than five (5) acres;
6. When harvesting or otherwise removing on tracts larger than five (5) acres, at least 30% of the forest cover (canopy) shall be kept and the residual trees shall be well distributed. At least 30% of these residual trees shall be composed of highest value species as determined and documented by the Forestry Management Plan;
7. Clear cutting is prohibited on acres with slopes greater than 15% or within the 100 year floodway.

902.14 FUNERAL HOME

Funeral homes shall accommodate all of the parking areas required as provided in Article 12 of this Ordinance. In addition, sufficient area shall be provided for vehicular circulation on the lot and for the assembly area for the procession beyond the street right-of-way line. Points of vehicular access to the site shall not create traffic hazards on the street. Loading and unloading areas for ambulances and hearses shall be within an enclosed building or shall be screened from view from adjacent properties by a solid wall or solid opaque fencing six (6) feet in height. Outside lighting shall be directed away from adjacent properties.

902.15 GROUP RESIDENCE

Any party wishing to establish and/or operate a "Group Residence", in addition to all other applicable zoning regulations and/or requirements, shall be subject to the following supplemental requirements:

- A. The maximum occupancy of a Group Residence shall not exceed eight (8) persons, excluding staff. The occupancy of said Group Residence shall be governed by the standards and requirements as provided for within the most recent housing code standards by the governing code as provided for under the Pennsylvania Uniform Construction Code.
- B. The Group Residence shall be under the jurisdictional and regulatory control of a governmental entity (County, State and/or Federal).
- C. The applicant and/or operator of a Group Residence shall provide written documentation from the applicable governmental entity which certifies said Group Residence complies with the location, supervised services, operation, staffing and management of all applicable standards and regulations of the subject governing program.
- D. The applicable requirements and standards which govern off-street parking for a single family dwelling shall also govern for a Group Residence, however two (2) additional off-street parking spaces shall be provided if there is any required staffing associated with the management and operation of a Group Residence.

902.16 HOME OCCUPATIONS

A home occupation which is conducted within a dwelling unit or an existing accessory building to the dwelling shall be subject to the following provisions:

- A. The occupation shall be carried on wholly indoors, within the principal building or within a building accessory thereto.
- B. There shall be permitted a sign, not to exceed two (2) square feet in surface area, placed flat against the building as a wall sign, and shall not be permitted above the first story level. No other exterior display or exterior storage of materials or any other exterior indication of the home occupation shall be permitted.
- C. There shall be no maintenance of a stock in trade or show windows or displays or advertising visible outside the premises.
- D. There shall be no repetitive servicing by truck.
- E. No offensive noise, vibration, smoke, dust, odors, heat or glare shall be produced.
- F. The home occupation shall be carried on only by members of the immediate family residing in the dwelling unit, plus not more than two (2) additional employees. Licensed medical practitioners and attorneys may have more than two (2) additional employees, subject to approval by the Zoning Hearing Board.

- G. The floor area devoted to a home occupation, regardless of where located on a lot, shall be equivalent to not more than twenty-five (25%) percent of the floor area of the dwelling unit.
- H. Each home occupation shall have off-street parking as indicated below, in addition to that required for the dwelling unit:
 - (1) Four (4) spaces for each physician, dentist, or other licensed medical practitioner.
 - (2) Three (3) spaces for all other home occupations.

902.17 INDUSTRIAL ACTIVITIES

In addition to the applicable requirements of this Ordinance, all industrial activities and uses permitted by right, special exception and/or conditional use shall comply with all regulations governing odors, fumes, dust, smoke, vibration, noise, sewage, industrial waste, fire hazards and any other of the activities and uses with side effects that are deemed injurious to the public health, safety and welfare by the United States Environmental Protection Agency (EPA), the Pennsylvania Department of Environmental Protection (DEP) and the Pennsylvania Department of Labor and Industry. It shall be the responsibility of the applicant to provide the Zoning Officer with a complete listing of all State and Federal regulations governing the proposed use and written compliance from the governing agency. All industries are required to supply the Township Emergency Management Agency and the Fire Department with all applicable MSDS sheets, emergency operations and evacuation plans.

902.18 MOTELS AND HOTELS

Motel and Hotel uses shall require a minimum lot size of not less than three (3) acres with a lot width of not less than two hundred (200) feet.

- A. The hotel/motel shall be serviced by centralized sewage and centralized water.
- B. There shall be more than ten (10) sleeping rooms.
- C. Fifty (50%) percent or more of the gross floor area shall be devoted to sleeping rooms.
- D. There may be club rooms, ballrooms, and common dining facilities.
- E. In the case of a corner lot, access drives shall be not less than eighty (80) feet from the intersection of any two streets as measured from the intersection of their right-of-way lines.

902.19 NO IMPACT HOME-BASED BUSINESS

A No Impact Home-Based Business, as defined in Article 2 of this Ordinance, shall be permitted by right in all Residential Zoning Districts and zoning districts in which residences are permitted as a principal permitted use, except that such permission

shall not supersede any deed restriction, covenant, or agreement restricting the use of the land, nor any master deed, bylaw, or other document applicable to common interest ownership community. The following standards and criteria shall apply to a No Impact Home-Based Business:

- A. The business activity shall be compatible with the residential use of the property and surrounding residential uses.
- B. The business shall employ no employees other than the family members residing in the dwelling.
- C. There shall be no display or sale of retail goods and no stockpiling or inventory of a substantial nature.
- D. There shall be no outside appearance of a business, including, but not limited to, parking, signs or lights.
- E. The business activity shall not use any equipment or process which creates noise, vibration, glare, fumes, odors, or electrical or electronic interference, including interference with radio or television reception, which is detectable in the neighborhood.
- F. The business activity shall not generate any solid waste or sewage discharge, in volume or type, which is not normally associated with a residential use in the neighborhood.
- G. The business activity shall not occupy more than twenty-five (25%) of the habitable floor area.
- H. The business shall not involve any illegal activity.

902.20 OUTDOOR FUEL BURNING FURNACE:

An outdoor fuel burning furnace shall be deemed to be an accessory structure permitted in all zoning districts, as a special exception use, thereby requiring approval from the Zoning Hearing Board. Said furnaces shall only be located within a rear yard of a property. An outdoor fuel burning furnace shall comply with the following standards

- A. A safe flue or chimney shall be provided which has a minimum termination height of twenty-five (25) feet above the natural ground level upon which the furnace is located.
- B. A fan or blower attached to the appliance to increase the efficiency of the furnace.
- C. An outdoor fuel burning furnace shall be located not less than one hundred (100) feet from any property line and not less than forty (40) feet to any principal structure or building located upon the property.
- D. All outdoor fuel burning furnace are required to meet emission standards currently required by the Environmental Protection Agency (EPA). Emission

standards currently required by the EPA are hereby adopted by reference together with any amendments or modifications made to them in the future.

- E. All outdoor fuel burning appliances shall be installed, operated and maintained in strict conformance with the manufacturer's instructions and the regulations promulgated hereunder. In the event of a conflict, the regulations promulgated within this Section shall apply unless the manufacturer's instructions are stricter, in which case the manufacturer's instructions shall apply.
- F. The owner of the outdoor fuel burning furnace shall produce the manufacturer's instructions for all devices that do not conform to the requirements of this Section.
- G. All outdoor fuel burning furnaces may only be utilized for the sole purpose of furnishing heat to a structure or building and/or providing hot water during the time period of October 1 through April 30; and subject to meeting the requirements of this Section.
- H. No homemade outdoor fuel burning appliances will be allowed.
- I. Only natural wood, coal, heating oil, natural gas, kerosene or wood specifically permitted by the manufacturer in writing may be burned in outdoor furnaces. The burning in outside furnaces of processed wood products and non-wood products, household or other garbage, recyclable material, rubber tires, railroad ties, leaves, laminated wood, wet or soggy wood, painted or treated wood and any item not specifically and in writing permitted by the manufacturer is prohibited.
- J. All storage of materials to be burnt in the outdoor fuel burning furnace shall be neatly stacked and/or stored under cover and free from insects (termites, ants, etc.) or any type of disease carrying rodents.
- K. Ashes or waste cannot be accumulated in a large area on the property. They may be dispersed on the property as long as no accumulation can be seen (for example: spread in a driveway). Any large accumulation of ashes or waste must be disposed of weekly with the owner's trash.

902.21 PLACE OF WORSHIP:

A minimum lot size of not less than two (2) acres shall be required. A parking area shall accommodate all parking spaces as required in Article 12 of this Ordinance. Access driveways shall be not greater than twenty-five (25) feet in width. In the case of a corner lot, access driveways shall be not less than sixty (60) feet from the intersection of the two streets, as measured from the intersection of their right-of-way lines.

902.22 PUBLIC RECREATIONAL FACILITIES - (OUTDOORS)

All such facilities shall conform to the following regulations:

- A. No outdoor recreation activity, excluding trails and nature paths, shall be conducted closer than thirty-five (35) feet to any property line.

- B. Storm drainage from the site shall be channeled to natural drainage courses and away from adjoining properties.

902.23 PUBLIC USES

MUNICIPAL, POLICE AND FIRE BUILDINGS: Where the parking area abuts the side or rear property lines of an adjoining residential use, a fence being not less than six (6) feet in height along with a planting of shrubbery or evergreen trees shall be provided.

902.24 PUBLIC UTILITY BUILDINGS AND STRUCTURES

Public utility facilities as defined in Article 2 shall conform to the following regulations for properties containing such uses:

- A. Access and parking shall be provided only in relationship to the maintenance and servicing of such facilities.
- B. A chain-link fence and locked gate eight (8) feet in height shall surround the building or structures of such facilities.
- C. Outside lighting shall be directed away from adjacent properties.
- D. The location, design and operation of such facilities shall not adversely affect the character of any adjacent residential properties.
- E. A buffer area not less than ten (10) feet in depth and comprised of trees and/or shrubs designed to conceal such buildings or structures of such facilities shall be required.

902.25 RESTAURANTS AND TAVERNS

Access drives shall not exceed twenty-five (25) feet in width and for those establishments located on a corner lot, no access drive shall be located less than sixty (60) feet from an intersection, as measured from the right-of-way lines, from the intersection of the two abutting streets. Outdoor trash dumpsters shall be concealed within an area surrounded by solid opaque fencing not less than six (6) feet in height. The provision of any outside lighting shall be directed away from adjacent properties.

902.26 RESTAURANT, FAST FOOD

Access drives shall not exceed twenty-five (25) feet in width and for those establishments located on a corner lot, no access drive shall be located less than sixty (60) feet from an intersection, as measured from the right-of-way lines, from the intersection of the two abutting streets. Outdoor trash dumpsters shall be concealed within an area surrounded by solid opaque fencing not less than six (6) feet in height. The provision of any outside lighting shall be directed away from adjacent properties. All drive-through lanes shall be distinctly marked and shall be separate from circulation lanes. Lanes shall not cross any principal pedestrian access to the building or site. To avoid internal traffic congestion, the site layout shall provide a minimum queuing distance of 150 feet for vehicles between

start of lane order to service window and a minimum queuing distance of fifty (50) feet from start of lane to order.

902.27 RIPARIAN BUFFER:

In all Zoning Districts, a minimum setback of one hundred (100) feet from any Natural Watercourse, (as defined in Article 2) shall be required for any form of development and/or improvements

902.28 SINGLE RESIDENTIAL STRUCTURES, CONTAINING
MULTIFAMILY DWELLING UNITS

Such a structure shall meet the minimum lot size for the Zoning District in which it is located plus not less than two thousand five hundred (2,500) square feet for each dwelling. A minimum lot width of not less than one hundred (100) feet shall be required. Each sideyard shall have a setback of not less than twenty (20) feet.

902.29 TOWNHOUSES

Townhouses which are not being developed as part of a Planned Residential Development, shall be subject to the following provisions and all applicable provisions of the Lehman Township Subdivision and Land Development Ordinance:

- A. Minimum lot size for the development of Townhouses shall be four (4) acres.
- B. Minimum Lot Width shall be two-hundred (200) feet.
- C. Maximum percentage of building coverage on a lot per dwelling unit, exclusive of common or public open areas, shall be forty (40%) percent.
- D. Minimum lot width per dwelling unit shall be not less than twenty (20) feet.
- E. Minimum lot depth per dwelling unit shall be not less than one-hundred (100) feet.
- F. Minimum lot area per dwelling unit shall be not less than 2,000 square feet.
- G. Minimum front yard setback shall be not less than thirty (30) feet.
- H. No side yard setbacks shall be required for attached interior Townhouse units. A minimum sideyard setback of not less than fifteen (15) feet shall be required only at the ends of the rows of Townhouses.
- I. Minimum rear yard setback shall be not less than thirty (30) feet.
- J. Minimum width of each dwelling unit shall be not less than twenty (20) feet.
- K. Maximum building height shall be 2¹/₂ stories or thirty-five (35) feet.
- L. Minimum distance between principal structures shall be not less than thirty (30) feet.

- M. Minimum front yard setback for off-street parking areas shall be not less than ten (10) feet.
- N. Minimum rear yard setbacks for off-street parking areas shall be not less than fifteen (15) feet.
- O. Two (2) off-street parking spaces shall be provided for each dwelling unit.
- P. Unattached accessory structures such as pools, garages, carports and sheds shall be prohibited in the front yard. Unattached accessory structures located in the side or rear yard shall have not less than five (5) feet side and rear yard setbacks. Attached accessory structures shall have the same setbacks as required for principal structures.

902.30 TRUCKING FACILITIES

The property shall not be less than three (3) acres in area. Access drives shall be no more than twenty-five (25) feet in width; parking and loading areas shall conform to the regulations within Article 12. No truck parking or terminal operation shall be allowed within one-hundred (100) feet of any lot line. Outside lighting shall be directed away from adjacent properties.

902.31 WAREHOUSE AND DISTRIBUTION FACILITIES

All materials shall be stored within a completely enclosed building and yard areas shall be kept clear of junk, trash or other types of debris. Access drives shall not exceed twenty-five (25) feet in width; parking and loading areas shall conform to the regulations of Article 12 of this Ordinance. No warehouse activities, including parking and/or loading areas, shall be allowed within fifty (50) feet of any property line.

902.32 WAREHOUSE (SELF-STORAGE)

These facilities may be a building or group of buildings in a controlled-access and fenced compound, containing varying sizes of individual compartmentalized and controlled-access stalls or lockers for dead storage of customers' goods and personal property, with storage space available for rental to the general public. All storage shall be contained within a completely enclosed building or buildings. There shall be a minimum spacing of twenty-five (25) feet between buildings for traffic circulation, parking and fire lane purposes. All outside lighting shall be directed away from adjacent properties.

ARTICLE 10
NONCONFORMING LOTS, USES, STRUCTURES AND BUILDINGS

SECTION 1001 INTENT

Within the zoning districts established by this Ordinance or subsequent amendments thereto, there may exist or will exist certain nonconforming uses of structures and/or land which if lawful before this Ordinance was passed or amended, may be continued, subject to certain limitations, although such uses would be prohibited, regulated or restricted under the terms and provisions of this Ordinance or subsequent amendments thereto.

SECTION 1002 NONCONFORMING LOTS OF RECORD

- A. In any zoning district, structures, both principal and accessory, may be erected on any single lot of record at the effective date of adoption or amendment of this Ordinance, notwithstanding limitations imposed Section 1002 (C) and/or by any other provisions or regulations of this Ordinance, even though such lots fail to meet the requirements for the area and/or width of the zoning district in which such lot is located. The erection of a structure on such a lot shall, however, conform to front, rear and sideyard requirements for the zoning district in which such lot is located. Variances from the governing yard requirements in any Zoning District, including but not limited to using the existing foundation and/or footprint of a prior structure, may be obtained only through action of the Zoning Hearing Board.
- B. If two (2) or more adjacent lots, with continuous frontage, in single ownership, are lots of record at the effective date of the adoption or amendment of this Ordinance, and if such lots do not meet the required lot area and/or width requirements, such lots shall be considered to be an undivided parcel and no portions of such parcel shall be used or sold in a manner which further diminishes compliance with the required lot area and/or width requirement for the zoning district in which such lots are located.
- C. No expansion of a structure containing a conforming use shall be permitted on a nonconforming lot when said lot is less than ½ acre (21,780 square feet).

An expansion of a structure containing a conforming use on a nonconforming lot of record that is greater than ½ acre (21,780 square feet) may be approved as a special exception use by the Zoning Hearing Board subject to compliance with the criteria set forth in Section 1610.2 of the Ordinance and the following supplemental criteria:

- 1. Compliance with the applicable setback requirements for the District in which the structure is located.
- 2. Compliance with the maximum lot coverage.

SECTION 1003 CONTINUATION OF NONCONFORMITY

Any lawful nonconforming use and/or nonconforming structure may be continued except as otherwise provided in this Article, but any nonconforming use and/or structure shall not be enlarged, reconstructed, structurally altered or changed except as permitted by provisions of this Article.

SECTION 1004 REGISTRATION OF NONCONFORMING USES AND STRUCTURES

The Zoning Officer may prepare and maintain an accurate listing of all nonconforming uses and structures. The Zoning Officer or the property owner may initiate the process of certifying the nonconformity of a given property. The Zoning Officer shall issue a Certificate of Nonconformity where he finds the use or structure, although not in compliance with all applicable requirements of the zoning district in which it is located, to be a lawful nonconforming use or structure.

SECTION 1005 CHANGES OF NONCONFORMING USES

The Zoning Hearing Board may grant a special exception to allow one (1) nonconforming use to be changed to another nonconforming use, if the Board finds that all of the following provisions will be met:

- A. No structural alterations are made.
- B. The proposed change shall be less objectionable in external effects than that of the previous or existing nonconforming use, and shall be more consistent with its physical surrounding.
- C. There shall be no increase in traffic generation or congestion, including both vehicular and pedestrian traffic.
- D. There shall be no increase in the danger of fire or explosion.
- E. There shall be no increase in noise, smoke, dust, fumes, vapors, gases, heat, odor, glare, vibration, lighting or electrical disturbances.
- F. There shall be no increased threat to health by any reason, including that of rodent, vermin or otherwise.

SECTION 1006 ENLARGEMENT OF NONCONFORMING USE AND/OR STRUCTURE

The enlargement or expansion of a nonconforming use of land and/or structure in any Zoning District shall be prohibited regardless of the lot size.

SECTION 1007 RESTORATION OF A NONCONFORMING USE AND/OR STRUCTURE

Any voluntary and/or unintentional destruction of a nonconforming use and/or structure which has been damaged or destroyed by fire, explosion, windstorm, flood or other

similar act or cause to the extent of more than sixty (60%) percent of its reproduction value at the time of the damage shall not be restored except in conformity with the regulations of the zoning district in which it is located.

When damage is less than sixty (60%) percent of its reproduction value, a nonconforming building or other structure may be repaired or reconstructed and used as before the time of the damage, provided such repairs or reconstruction are completed within one (1) year of the date of such damage, unless a variance is secured from the Zoning Hearing Board.

A conforming residential use, which is constructed on a lot that is nonconforming with respect to lot area, lot width, and/or yard areas, may be reconstructed on the same lot subject to conforming with the applicable setback requirements for the District in which it is located.

SECTION 1008 TERMINATION OF NONCONFORMING USE AND/OR STRUCTURE

1008.1 NONCONFORMING USE AND/OR STRUCTURE

A nonconforming use and/or structure shall not be reconstructed when damaged to an extent greater than sixty (60%) percent of its reproduction value at the time of the damage and said nonconforming use and/or structure shall be deemed terminated.

1008.2 CHANGE OF NONCONFORMING USE

Where a nonconforming use is changed into a conforming use, a nonconforming use shall not thereafter be resumed. A change of one (1) nonconforming use, without approval by the Zoning Hearing Board, shall be considered an abandonment of the prior nonconforming use, which shall not thereafter be resumed.

1008.3 ABANDONMENT OF NONCONFORMING USE

The right to a nonconforming use shall be terminated and a nonconforming use shall not be resumed if a nonconforming use is abandoned. A nonconforming use shall be deemed abandoned, if it is changed as set forth in Section 1008.2 of this Ordinance or if it is discontinued for a continuous period of one (1) year and the owner of said property fails to obtain a Certificate of Intention in accordance with Section 1009 of this Ordinance which indicates his or her intent to resume the nonconforming use.

1008.4 UNSAFE STRUCTURES

If a nonconforming structure, containing a nonconforming use, becomes physically unsafe due to lack of maintenance or repairs and has been legally condemned, it shall not thereafter be restored, repaired or rebuilt except in conformity with uses permitted within the zoning district in which such structure is located.

SECTION 1009 CERTIFICATE OF INTENTION FOR A NONCONFORMING USE

A Certificate of Intention shall be required in any instance when a nonconforming use of a structure, building and/or land is to be discontinued for a period of more than one (1) year and the owner or operator of the nonconforming use wishes to maintain a legal nonconforming status. A Certificate of Intention form shall be completed by the owner or operator of the discontinued nonconforming use. Said completed Certificate of Intention form shall be submitted to and approved by the Zoning Officer. The applicant shall indicate in writing the reason or basis for the discontinuation of the nonconforming use and the anticipated date on which the nonconforming use will resume. A Certificate of Intention, as issued and approved by the Zoning Officer, shall be valid for a period of one year from the date of issuance. A Certificate of Intention may be renewed annually by the owner or operator of the nonconforming use. Failure to renew a Certificate of Intention shall constitute a deemed abandonment of the use and forfeiture of the legal nonconforming use status of the property. A Certificate of Intention may not be renewed to exceed a period of two years beyond the original date of issuance.

ARTICLE 11
SIGN REGULATIONS

SECTION 1101 SIGNS

1101.1 TYPE AND USE OF SIGNS

All signs shall be classified according to type and use as provided herein:

- A. IDENTIFICATION SIGN: A sign which communicates the name and/or address of an occupant or a permitted home occupation upon the zoning lot on which the sign is located.

- B. BUSINESS SIGN: A sign which communicates information concerning a business, profession, commodity, service, entertainment or development which is sold, offered, prepared, manufactured or conducted upon the zoning lot where the sign is located.

- C. BILLBOARD OR OFF PREMISE ADVERTISING SIGN: A sign which communicates information concerning a subject, business, profession, activity, commodity, service, entertainment or development not related to, sold, offered, prepared or manufactured on the zoning lot where the sign is located.

- D. REAL ESTATE SIGN: A temporary sign, having an area not greater than eight (8) square feet in area which advertises the sale, rental or development of the premises upon which the sign is located.

- E. SUBDIVISION/DEVELOPMENT ADVERTISING SIGN: A temporary real estate sign, not greater than sixty (60) square feet in area, which advertises the sale of property within an approved subdivision or planned residential development.

- F. INSTITUTIONAL SIGN: A sign which identifies a use pertaining to a school, church, hospital or other institution of a similar public or semipublic nature.

- G. ON-SITE DIRECTIONAL AND/OR INFORMATIONAL SIGN: A sign commonly associated with, and limited to, information and directions necessary for visitors entering or exiting a property, including signs marking entrance and exits, parking areas, circulation direction, restrooms and pick-up and delivery areas. Such signs shall contain no advertising material.

- H. SUBDIVISION/DEVELOPMENT IDENTIFICATION SIGN: A sign that displays the name of a subdivision and/or development at an entrance to the site upon which the subdivision or development is located.

- I. EVENT SIGNS: A temporary sign advertising private not-for-profit events and fund-raisers such as picnics, bazaars, gaming events, arts and crafts shows, and similar types of fundraising activities.

J. POLITICAL SIGNS: A temporary sign advertising the name of a candidate, a political event and/or a public issue which relates to a political cause and/or policy.

SECTION 1102 CONSTRUCTION TYPES

All signs shall be classified according to construction types as provided herein:

- A. FREESTANDING SIGN: A sign not attached or applied to a principal building but supported by another structure, including structures designed for the sign itself and accessory structures.
- B. WALL SIGN: A sign attached, painted or affixed to the wall of a principal structure or accessory structure, not projecting over any public right-of-way and not extending more than two (2) feet from the building or structure.
- C. PROJECTING SIGN: A sign which projects outward or extends more than two (2) feet from the building or structure.
- D. ELECTRONIC MESSAGE BOARD SIGN: A sign related to a business or institutional use whose alphabetic, pictographic or symbolic informational content may be changed or altered on a fixed display screen composed of electrically illuminated segments.

SECTION 1103 PERMITTED SIGNS BY ZONING DISTRICT

The establishment, erection or reconstruction of any sign shall be in accordance with the regulations as set forth herein:

- A. IDENTIFICATION SIGN: Such signs shall be permitted in all zoning districts.
- B. BUSINESS SIGNS: Such signs shall be permitted in B-1, B-2, C-1, A-1 and an I-1 Zoning Districts.
- C. REAL ESTATE SIGNS: Such signs shall be permitted in all zoning districts.
- D. SUBDIVISION/DEVELOPMENT ADVERTISING SIGNS: Such signs shall be permitted in all zoning districts.
- E. INSTITUTIONAL SIGNS: Such signs shall be permitted in all zoning districts.
- F. ON-SITE DIRECTIONAL AND/OR INFORMATIONAL SIGN: Such signs shall be permitted in all zoning districts.
- G. BILLBOARD SIGNS: Such signs shall be permitted in an I-1 zoning district.
- H. SUBDIVISION/DEVELOPMENT IDENTIFICATION SIGNS: Such signs shall be permitted in all zoning districts.

- I. POLITICAL SIGNS: Such signs shall be permitted in all zoning districts.
- J. EVENT SIGNS: Such signs shall be permitted in all zoning districts.

SECTION 1104 AREA, HEIGHT AND SETBACK REQUIREMENTS

The establishment, erection or reconstruction of permitted signs shall be governed by the following regulations:

- A. IDENTIFICATION SIGN: An identification sign shall not exceed six (6) square feet in area. Such a sign shall be setback not less than ten (10') feet from any property line. The maximum height of an identification sign, if free standing, shall not exceed eight (8) feet in height, or if attached to a building shall not be higher than the first story of the building to which it is attached.
- B. BUSINESS SIGN: A business sign shall not exceed the square feet of area for the following Zoning Districts:

- C-1 District - Sixteen (16) square feet
- A-1 District - Sixteen (16) square feet
- B-1 District - Thirty-Two (32) square feet
- B-2 District - Thirty-Two (32) square feet
- I-1 District - Thirty-Two (32) square feet
- S-1 District - Thirty-Two (32) square feet

In a shopping center or an integrated grouping of commercial or industrial uses which is classified as a "Land Development", in addition to permitting each individual business establishment to display a business sign, one (1) sign shall be permitted on the lot, that indicates the name of the shopping center and/or the names of the business establishments located therein. Only one (1) such sign shall be permitted on the lot and such sign shall not exceed three hundred (300) square feet in area.

A business sign shall have a minimum front yard setback of not less than twenty-five (25%) percent of the required setback for a principal structure in the zoning district in which the sign is located. If an existing building has a front yard setback which is less than ten (10) feet, the sign shall be attached flat against the building as a wall sign.

The maximum height of any business sign shall not exceed twelve (12) feet.

- C. REAL ESTATE SIGN: A temporary real estate sign shall not exceed eight (8) square feet in area and shall be located on the same lot on which the property is offered for sale or rental. The sign shall be setback not less than ten (10') feet from any property line and shall be removed from the premises within thirty (30) days after the sale or rental of the property.

- D. SUBDIVISION/DEVELOPMENT ADVERTISING SIGN: A subdivision/development advertising sign shall be considered a temporary real estate sign and shall not exceed thirty-two (32) square feet in area. The sign shall be located on the same property on which lots and/or homes in the subdivision are offered for sale. Not more than one (1) sign shall be erected in any subdivision, and such signs shall be set back not less than thirty-five (35') feet from any property line. The sign shall be removed from the premises within thirty (30) days after the last lot and/or home is sold.
- E. INSTITUTIONAL SIGN: An institutional sign for public and semipublic facilities, such as schools, churches, hospitals, libraries, colleges or other institutions of a similar nature shall not exceed thirty-two (32) square feet in area. The maximum height of such signs shall not exceed twelve (12) feet. An institutional sign shall have a setback of not less than ten (10') feet from any property line.
- F. ON-SITE DIRECTIONAL AND/OR INFORMATIONAL SIGN: An on-site directional and/or informational sign shall not exceed six (6) square feet in area. A front, rear or side yard setback of not less than five (5) feet shall be required for such signs. The maximum height of such signs shall not exceed six (6) feet.
- G. BILLBOARD SIGN OR OFF PREMISE ADVERTISING SIGN: The following regulations shall apply to any billboard and/or off-premise advertising sign. The advertising surface area of any panel shall not exceed 300 square feet and not more than one (1) double-faced panel shall be permitted on the same structure or standard.
- Such a sign shall not be located within 200 feet of any residential structure or residential zoning district.
 - There shall be a minimum spacing distance of 1,000 feet between all such signs.
 - Such signs shall be setback not less than two-hundred (200) feet from the center line of any public right-of-way for vehicular traffic
 - Such signs shall not be attached to a building nor shall such signs be permitted to project above the maximum height limitation for the zoning district in which it is located.
- H. SUBDIVISION/DEVELOPMENT IDENTIFICATION SIGN: A subdivision/development identification sign shall not exceed ten (10) square feet in area. Not more than one (1) sign shall be erected at any entrance point to the subdivision/development. Such signs shall be setback not less than ten (10) feet any property line. The maximum height of such signs shall not exceed ten (10) feet.
- I. EVENT SIGN: An event sign shall not exceed six (6) square feet in area. Such signs shall not be attached to any tree, utility pole or structure or any other location within a public right-of-way. Such signs shall not be posted more than forty-five

(45) days in advance of the scheduled event and shall be removed within thirty (30) days following the event. An event sign shall have a setback of not less than five (5') feet from any property line.

- J. **POLITICAL SIGNS.** A political sign shall not exceed six (6) square feet in area, having dimensions of 2 x 3 feet. Such signs shall not be attached to any tree, utility pole or structure or any other location within a public right-of-way. Such signs shall not be posted more than forty-five (45) days in advance of the scheduled election date and shall be removed within fifteen (15) days following the election. A political sign shall have a setback of not less than five (5') feet from any property line.
- K. **NUMBER OF SIGNS:** Excluding on-site directional and/or informational signs and temporary signs, not more than two (2) signs shall be permitted on any property located in any zoning district. In the case of a property located upon a corner lot, a total of three (3) signs may be permitted.

SECTION 1105 SIGNS RELATED TO NONCONFORMING USES

An existing sign related to a legally established nonconforming use shall be considered a nonconforming sign that may be continued at its present dimensions and location, but shall not be enlarged. Where a nonconforming use is lawfully changed to another nonconforming use, a new sign shall be permitted being the same type and size as the previous sign. The new sign shall be erected on the property at the same location as the previous sign. The sign may be erected at a different location provided it meets all applicable regulations within this Article and for the zoning district in which it is located.

SECTION 1106 AREA COMPUTATION OF SIGNS

The area of a sign shall be construed to include all lettering, wording and accompanying design and symbols, together with the background including border and trim, whether open or enclosed on which they are displayed, but not including any supporting framework and bracing that are incidental to the display itself. Computation of the area for particular signs shall be in accordance with the following regulations:

- A. **WALL SIGN:** For a sign painted upon or applied to a building, the area shall be considered to include all lettering, wording and accompanying design or symbols together with any backing associated with the sign.
- B. **SEPARATE SYMBOLS:** Where the sign consists of individual letters or symbols attached to or painted on a surface; building, wall or window, the area shall be considered to be that of the smallest rectangle or other shape that encompasses all of the letters and symbols.
- C. **DOUBLE-FACE SIGN:** With the exception of a billboard, when computing the area of a double-face sign, only one (1) sign shall be considered, provided both faces are identical.

- D. CYLINDRICAL SIGN: The area of a cylindrical sign shall be computed by multiplying one-half ($1/2$) of the circumference by the height of the sign.

SECTION 1107 ILLUMINATED SIGNS

Signs may be illuminated by direct lighting, provided such lighting is shielded so no direct light will shine on abutting properties or the normal line of vision of the public using the streets.

SECTION 1108 MISCELLANEOUS SIGNS PROVISIONS

1108.1 CONSTRUCTION SITES

Non-illuminated temporary signs not greater than twenty (20) square feet related to a developer, contractor or subcontractor working at a construction site may be permitted upon the property provided they shall be removed within seven (7) days after completion of the construction work and not more than one (1) sign shall be placed on each street frontage of the construction site. Such signs shall not be permitted within any public right-of-way.

1108.2 VEHICLES OR STRUCTURES

Any vehicle or structure to which a sign is affixed which communicates information concerning a subject, business, profession, activity, commodity, service, entertainment or development not related to, sold, offered, prepared or manufactured on the zoning lot where the sign is located shall be considered a Billboard Sign Or Off Premise Advertising Sign a free standing sign and as such be subject to the provisions governing such signs.

1108.3 FARM PRODUCTS

Signs advertising the sale of farm products grown on premises are permitted, provided (1) the size of any such sign is not in excess of eight (8) square feet, (2) not more than two signs are used, and (3) the signs shall only be displayed when such products are on sale. Such signs shall not be permitted within any public right-of-way.

SECTION 1109 VERTICAL CLEARANCE

A freestanding sign and a projecting sign shall have a vertical distance of not less than nine (9) feet as measured from the lowest edge or point of the sign to the highest ground elevation located beneath the sign.

SECTION 1110 PROHIBITED SIGNS

The following types of signs shall not be permitted in any zoning district:

- A. Signs that are located in such a position which endangers vehicular and/or pedestrian traffic by obscuring the site distance.

- B. Signs which by design and/or location may be confused with traffic signs or signals.
- C. Any sign located in or extending into a public right-of-way, including sidewalk areas, except an official street sign or traffic control sign.
- D. Any freestanding or projecting sign within an area bounded by the intersection of two (2) public or private streets, for a distance of twenty (20) feet along the centerline of the right-of-way of such streets from the point of their intersection.
- E. Signs which due to their construction and/or location would constitute a hazard or a potential danger to the community.
- F. Signs placed, inscribed or supported upon the roof or upon any structure which extends above the eaves of the roof of any building.
- G. Signs on mobile stands which can be moved from place to place.
- H. Signs which emit smoke, visible vapors or particles, sound, or odor.

SECTION 1111 PERMITS REQUIRED

A zoning permit shall be required for the erection, alteration or relocation of any sign, excluding a temporary sign, which exceeds eight (8) square feet in surface area. Real estate signs and subdivision/land development signs shall be exempt.

SIGN REGULATION TABLES

**TABLE A
SIGNS PERMITTED BY ZONING DISTRICT**

TYPE OF SIGN PERMITTED BY ZONING DISTRICT								
TYPE OF SIGN	R-1	R-2	C-1	A-1	B-1	B-2	I-1	S-1
Identification	X	X	X	X	X	X	X	X
Business			X	X	X	X	X	
Real Estate	X	X	X	X	X	X	X	X
Subdivision/Development	X	X	X	X	X	X	X	X
Institutional	X	X	X	X	X	X	X	X
On-Site Directional			X	X	X	X	X	X
Electronic Message Board Sign:					X	X		X
Billboard/Off-Premise Advertising							X	
Subdivision/Development Identification	X	X	X	X	X	X	X	X
Event Sign	X	X	X	X	X	X	X	X
Political Sign	X	X	X	X	X	X	X	X

X-Indicates Permitted in District

**TABLE B
MAXIMUM AREA AND HEIGHT OF SIGNS**

AREA AND HEIGHT REQUIREMENTS		
TYPE OF SIGN	Maximum Area of Sign	Maximum Height of Free-Standing Sign
Identification	6 sq. ft.	8 feet
Business	32 sq. ft.	12 feet
Real Estate	8 sq. ft.	8 ft.
Subdivision/Development	10 sq. ft.	8 ft.
Institutional	32 sq. ft.	12 ft.
On-Site Directional	6 sq. ft.	6 ft.
Billboard/Off-Premise Advertising	300 sq. ft.	20 ft
Subdivision/Development Identification	10 sq. ft.	10 ft
Event Sign	6 sq. ft.	6 ft
Political Sign	6 sq. ft.	6ft

ARTICLE 12
OFF-STREET PARKING AND LOADING

SECTION 1201 PURPOSE

Off-street parking, loading and unloading facilities shall be provided to lessen traffic congestion in the streets. The facilities required by these provisions shall be available throughout the hours of operation for the particular business or use for which such facilities are provided. As uses herein, the term "parking space" includes covered garage or carport or uncovered parking lot space located off the public right-of-way.

SECTION 1202 SIZE OF OFF-STREET PARKING SPACES

Each off-street parking space shall have an area of not less than one hundred and sixty two (162) square feet, being nine (9) feet in width and eighteen (18) feet in length, exclusive of access drives or aisles.

SECTION 1203 DIMENSIONS AND DESIGN

The dimension and design of off-street parking areas, including parking garages, shall comply with the following:

- A Stall width shall be not less than nine (9) feet.
- B Stall depth shall be not less than eighteen (18) feet.
- C The minimum width of aisles providing access to stalls, with one-way traffic, varying with the angle of parking shall be as follows:

<u>Angle of Parking</u>	<u>Minimum Aisle Width</u>
Parallel	Twelve (12) feet
30 degrees	Eleven (11) feet
45 degrees	Thirteen (13) feet
60 degrees	Eighteen (18) feet
90 degrees	Twenty (20) feet

- D The minimum width for aisles providing access to stalls with two-way traffic shall be twenty-four (24) feet.
- E Interior access ways and aisles shall be designed so as to prevent the blocking of vehicles entering or exiting the site.

SECTION 1204 SIZE OF OFF-STREET LOADING SPACES

Each off-street loading space shall be not less than fifty (50) feet in depth, twelve (12) feet in width and provide an overhead clearance of not less than fourteen (14) feet. All loading areas shall be designed, constructed and used so that all vehicular maneuvering is contained within the lot and no vehicle shall be permitted to back into or out of the public right-of-way.

SECTION 1205 ACCESS TO OFF-STREET PARKING OR LOADING AREAS

There shall be adequate ingress or egress to all parking spaces. There shall be provided an access drive leading to off-street parking and/or loading areas. Such access drive shall not be less than ten (10) feet in width for residential uses and not less than twenty (20) feet, or greater than thirty (30) feet for any nonresidential use. Access drives to such off-street parking and/or loading areas shall be limited to well defined locations, not to exceed two (2) along each front, side or rear lot lines. For corner properties, all access drives shall be not less than thirty-five (35) feet from the intersection of streets, as measured along the right-of-way lines, unless a greater distance is required for a specific use as contained within Article 9, Supplemental Regulations.

SECTION 1206 LOCATION OF OFF-STREET PARKING AREAS

The required off-street parking spaces for any type of use shall be located on the same lot as the principal use to which it is accessory. The required off-street parking may be permitted on another lot subject to the following requirements:

- A. The lot to be used for off-street parking and the lot on which the principal use is located shall be in the same zoning district.
- B. The lot to be used for off-street parking and the lot on which the principal use is located shall be held under the same ownership.
- C. The lot to be used for off-street parking shall be not less than four hundred (400) feet to any lot line on which the principal structure is located.

SECTION 1207 DRAINAGE AND SURFACING OF OFF-STREET PARKING AREAS

Any off-street parking area shall be graded for proper drainage and shall be surfaced so as to provide a pavement structure of bituminous asphalt, or concrete. The design, location and material for any proposed catch basins may be referred to the Township Engineer for review and approval.

SECTION 1208 SCREENING AND LANDSCAPING

A. SIDE YARDS AND REAR YARDS

The side and rear yards areas of properties that contain off-street parking for ten (10) or more vehicles and/or any off-street loading areas, shall be screened along such borders as provided herein:

- 1. A planting strip not less than five (5) feet in depth, containing ornamental grass, shrubbery, plants and/or a similar vegetative cover that are a minimum of three (3) feet in height at the time of planting.
- 2. Such borders shall also be screened by a substantial, tight fence, six (6) feet in height, or in lieu of a fence, an evergreen hedge not less than five (5) feet in height at the time of planting with a spacing distance of not greater than four (4) feet between each planting.

B. FRONT YARDS

The front yards areas of properties that contain off-street parking for ten (10) or more vehicles and/or any off-street loading areas, shall be screened along such borders as provided herein:

1. A planting strip not less than ten (10) feet in depth shall be provided between the parking areas and the abutting street right-of-way except for the location of access drives to the property. Said planting strip shall contain ornamental grass, shrubbery, plants or a similar vegetative cover.
2. Said planting strip shall also contain one (1) shade tree for each forty (40) linear feet of planting strip. Said trees shall be not less than eight (8) feet in height at the time of planting.

C. INTERIOR LANDSCAPING

Off-street parking areas that contain twenty (20) or more parking spaces, in addition to the compliance with regulations contained under items A and B of this Section, shall provide interior landscaping to said parking area. Said landscaping shall be not less than five (5%) percent of the total area that is paved and utilized for parking and or loading. Interior landscaped areas shall contain ornamental grass, shrubbery, plants or a similar vegetative cover and a minimum of one (1) shade tree not less than eight (8') feet in height at the time of planting.

SECTION 1209 LIGHTING

Any lighting used to illuminate off-street parking or loading areas shall be arranged to reflect the light away from adjoining properties and the public right-of-way. A

SECTION 1210 DRIVEWAYS

- A. Residential: All driveways shall have a minimum setback distance of ten (10 feet to any sideyard or rear yard property line. Townhouses, with exception of end units, shall be excluded from this provision.
- B. Nonresidential Uses: All driveways shall have a minimum setback distance of fifteen (15) feet to any sideyard or rear yard property line.

SECTION 1211 PARKING IN YARD AREAS

Required parking for residential properties shall be permitted within the required front, rear and/or side yard setbacks, provided that the minimum setback distance to any area used for off-street parking is not less than ten (10) feet to the nearest point of a side yard or rear yard property line and not less than fifteen (15) feet from the front yard property line.

Any off-street parking areas for a nonresidential use, when abutting a residential zoning district or a residential property shall be setback a minimum of fifteen (15) feet from the rear yard and any side yard property line.

SECTION 1212 EXISTING STRUCTURES AND USES

Structures and uses in existence at the date of adoption of this Ordinance shall not be subject to the off-street parking or off-street loading requirements, so long as a structure or use is not changed, altered or expanded. Existing off-street parking or off-street loading facilities provided prior to the adoption of this Ordinance shall not be reduced below the minimum required in this Ordinance.

SECTION 1213 CHANGES OF STRUCTURES OR USES

Whenever the existing use of a building, structure or land is proposed to be changed to a new use, off-street parking and/or off-street loading facilities shall be provided as required for such new use. However, if said building or structure was erected or the use of the land established prior to the effective date of this Ordinance, additional off-street parking or off-street loading facilities shall be mandatory only in the amount by which the requirements for the new use would exceed those for the existing use.

SECTION 1214 FRACTIONAL SPACE

When required parking computation results in fractions, any fraction less than one-half ($\frac{1}{2}$) shall be disregarded and any fraction equal to or greater than one-half ($\frac{1}{2}$) shall be construed to require a full space.

SECTION 1215 MULTIPLE ACTIVITIES OR USES

In any instance where a nonresidential structure, building or use of land contains more than one (1) defined use, the required parking for each specific use shall be provided.

SECTION 1216 OFF-STREET PARKING REQUIREMENTS

Any structure, building or use of land hereafter erected, converted, enlarged or placed into use shall comply with the minimum off-street parking spaces as provided herein:

1. Residential Structure: Two (2) spaces for each dwelling unit.
2. Boarding House or Rooming House: Two (2) spaces for each guestroom.
3. Personal Care Facility: Two (2) spaces for each person residing therein based upon the maximum number persons permitted under its State license.
4. Churches and Similar Places of Worship: One (1) space for every four (4) seats in the main assembly room or one (1) space for each twelve (12) feet of bench length.
5. Places of Public or Private Assembly, including Auditoriums or Meeting Halls: One (1) space for every four (4) seats or one (1) space for each fifty (50) square feet of floor area when there is no fixed seating.
6. Schools, Elementary and Secondary: One (1) space for each staff member, plus one (1) space for every twenty (20) classroom seats.

7. Day Care Facility: One (1) space for each employee, plus one (1) space for every five (5) persons, based upon the maximum number of persons which the facility is licensed to serve.
8. Medical or Dental Offices or Clinics: Six (6) spaces for every doctor, dentist, chiropractor or other licensed medical practitioner, plus one for each staff member.
9. Methadone Treatment Facility: Twelve (12) spaces for every doctor, licensed medical practitioner, and/or counselor; employed at the facility, plus one (1) additional space for every one hundred (100) square feet of gross floor area.
10. Clubs/Lodges (Private) One (1) space for every one hundred (100) square feet of gross floor area.
11. Public Uses: One (1) space for every two hundred (200) square feet of gross floor area, excluding storage area for vehicles and/or equipment.
12. Public Utility Facilities: Two spaces per facility; if the facility includes maintenance and/or storage yards then the required number of spaces shall be one (1) space for each employee assigned to work at such facility.
13. Outdoor Recreational Facilities: In cases where such facilities include spectator seating, there shall be one (1) space for every four (4) seats; facilities which do not provide any spectator seating shall provide one (1) space for every two thousand (2,000) square feet in the recreational site, plus an additional ten (10) spaces, if there is a swimming pool and an additional two (2) spaces if there is playground equipment.
14. Retail Businesses: One (1) space for every two hundred (200) square feet of gross floor area.
15. Restaurants and Taverns: One (1) space for every two and one half (2^{1/2}) seats, plus two (2) spaces for every three (3) employees based upon the maximum working shift.
16. Fast Food Restaurants: One (1) space for every eighty (80) square of service or dining area. A fast food restaurant with a drive-in window shall, in addition to the above requirements, provide stacking spaces for the drive-through window services in conformance with Section 902.26 of this Ordinance.
17. Personal Services: As defined in Article 2 of this Ordinance, such establishments shall provide one (1) space for every three hundred (300) square feet of gross floor area.
18. Animal Hospital: Five (5) spaces for every veterinarian.

19. Animal Kennel: One (1) space for each kennel and three (3) additional spaces for staff.
20. Group Residence: One (1) space for each two employees based upon the maximum working shift and one (1) space for each two residents who are eligible to operate a vehicle.
21. Offices: One (1) space for every two hundred (200) square feet of gross floor area.
22. Funeral Homes: Twenty (20) spaces for each viewing parlor.
23. Self-Storage Warehouse: One (1) space for every ten (10) stalls or lockers available for rental, plus one (1) for each employee on the maximum working shift.
24. Gasoline Service Stations: Two (2) exterior spaces for each service bay, one (1) space for each pump, plus one (1) space for every two hundred (200) square feet of gross floor area which is used for the sale of retail goods, including food and/or beverages.
25. Automotive Sales: One (1) exterior space for every six hundred (600) square feet of gross interior floor space plus one (1) additional space per each 5,000 square feet of open sales or display area.
26. Automotive Repairs: One (1) exterior space for every two hundred (200) square feet of gross interior floor area.
27. Equipment Sales and Repairs: One (1) exterior space for every two hundred (200) square feet of gross floor space.
28. Entertainment Facilities: Such facilities as defined in Article 2 of this Ordinance, shall require one (1) space for every two hundred (200) square feet of gross floor area.
29. Motels and Hotels: One (1) space for each unit for guest accommodations plus one (1) space for each two (2) employees on the maximum working shift. Any such facility which also serves food and/or beverages shall also comply with the parking requirements of a restaurant or tavern.
30. Hospitals/Nursing Homes: One (1) space for every three (3) beds, based upon the maximum number of beds permitted under its State license, plus one (1) space each employee on the maximum working shift.
31. Industrial, Manufacturing, Wholesale and Warehouse Establishments, Truck Terminals, Research and Testing Facilities: One (1) space for every five hundred (500) square feet of gross floor area; plus one (1) space for each employee on the maximum working shift; in any case, however, the total parking area shall be not less than twenty-five (25%) percent of the total gross square feet of the building.

32. Sexually Oriented Businesses

- a. Adult Bookstore: One (1) space for every one hundred (100) square feet of gross floor area, plus two additional (2) spaces for every three (3) employees based upon the maximum working shift.
- b. Adult Entertainment: One (1) space for every one hundred (100) square feet of gross floor area, plus:
 - one (1) additional space for every two (2) seats and/or, one (1) space for each fifty (50) square feet of floor area when there is no fixed seating.
 - two (2) additional spaces for every three (3) employees based upon the maximum working shift.
- c. Massage Parlor: One (1) space for every one hundred (100) square feet of gross floor area, plus two (2) additional spaces for every three (3) employees based upon the maximum working shift.

SECTION 1217 PARKING FOR OTHER COMMERCIAL USES

Any commercial use or nonresidential use of a structure, building or land, not specifically listed within Section 1215 of this Ordinance shall provide one (1) off-street parking space for every two hundred (200) square feet of gross floor area or lot area.

SECTION 1218 OFF-STREET LOADING REQUIREMENTS

All commercial and industrial establishments shall provide off-street loading, unloading and commercial vehicle storage space adequate for their needs. In no case shall a public right-of-way be used for the loading, unloading or storage of such vehicles.

SECTION 1219 PROVISION OF HANDICAPPED PARKING SPACES

Any business, individual or corporation that owns, leases or operates a facility which includes the provision of public accommodations and/or commercial facilities shall be governed by the provision of this section. A commercial facility shall include any business whose operations are open to the general public. A facility which provides public accommodations shall include, but may not be limited to the following:

- places of lodging
- establishments serving food or drink
- places of exhibition or entertainment
- places of public gathering
- sales or rental establishments
- service establishments, stations used for specified public transportation.
- places of public display or collection

- places of recreation
- places of education
- social service center establishments, and places of exercise or recreation.

SECTION 1220 DESIGN FEATURES FOR HANDICAPPED PARKING SPACES

The following provisions shall apply for required handicapped parking spaces:

1. An area not less than five (5) feet in width shall be provided between each handicapped parking space. Said area shall be marked and/or designed to prevent parking therein.
2. An area not less than eight (8) feet in width shall be provided between each van accessible parking space. Said area shall be marked and/or designed to prevent parking therein.
3. Vehicular access to handicapped parking areas shall have a minimum vertical clearance of not less than nine and one half (9¹/₂) feet.
4. An off-street parking area shall be designed to provide convenient, accessible routes from the handicapped parking areas to an accessible building entrance and to public streets and sidewalks which adjoin the off-street parking area.

Handicapped accessible spaces, serving a particular facility, shall be located on the shortest accessible route of travel from the parking area to an accessible entrance.

SECTION 1221 SIGNAGE FOR HANDICAPPED PARKING

Handicapped accessible parking spaces shall be designated as reserved by a sign showing the symbol of accessibility. Parking spaces designed for vans shall have an additional sign reading "Van-Accessible" mounted below the accessibility sign. Such signs shall be located in a manner so a vehicle cannot obscure them.

SECTION 1222 MINIMUM NUMBER OF HANDICAPPED ACCESSIBLE SPACES

When parking spaces are provided for self-parking by employees or visitors, or both, within the total number of off-street parking spaces required under Section 1215 and/or Section 1216 of this Ordinance, the following table shall be used to determine the required number of handicapped accessible spaces.

<u>TOTAL NUMBER OF SPACES</u>	<u>REQUIRED NUMBER OF ACCESSIBLE SPACES</u>
1 TO 25	1
26 TO 50	2
51 TO 75	3
76 TO 100	4
101 TO 150	5
151 TO 200	6
201 TO 300	7

301 TO 400
401 TO 500
501 TO 1000

8
9
2 PERCENT OF TOTAL

ARTICLE 13
FLOOD PLAIN MANAGEMENT

SECTION 1301 STATUTORY AUTHORIZATION

The Legislature of the Commonwealth of Pennsylvania has, by the passage of the Pennsylvania Flood Plain Management Act of 1978, delegated the responsibility to local governmental units to adopt floodplain management regulations to promote public health, safety, and the general welfare of its citizenry.

SECTION 1302 INTENT

The intent of the regulations as set forth in this Article to:

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

SECTION 1303 APPLICABILITY

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

SECTION 1304 ABROGATION AND GREATER RESTRICTIONS

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

SECTION 1305 SEVERABILITY

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

SECTION 1306 WARNING AND DISCLAIMER OF LIABILITY

The degree of flood protection sought by the provisions of this Article is considered reasonable for regulatory purposes and is based on acceptable engineering methods of study. Larger floods may occur or flood heights may be increased by man-made or

natural causes, such as ice jams and bridge openings restricted by debris. This Article does not imply that areas outside any identified floodplain areas or that land uses permitted within such areas will be free from flooding or flood damages.

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

SECTION 1307 DEFINITIONS

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

Specific Definitions

1. Accessory use or structure - a use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.
2. Base flood - a flood which has a one percent chance of being equaled or exceeded in any given year (also called the "100-year flood").
3. Base flood elevation (BFE) - the elevation shown on the Flood Insurance Rate Map (FIRM) for Zones AE, AH, A1-30 that indicates the water surface elevation resulting from a flood that has a 1-percent or greater chance of being equaled or exceeded in any given year.
4. Basement - any area of the building having its floor below ground level on all sides.
5. Building - a combination of materials to form a permanent structure having walls and a roof. Included shall be all manufactured homes and trailers to be used for human habitation.
6. Development - any man-made change to improved or unimproved real estate, including but not limited to the construction, reconstruction, renovation, repair, expansion, or alteration of buildings or other structures; the placement of manufactured homes; streets, and other paving; utilities; filling, grading and excavation; mining; dredging; drilling operations; storage of equipment or materials; and the subdivision of land.
7. Existing manufactured home park or subdivision – a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.
8. Expansion to an existing manufactured home park or subdivision – the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation

of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

9. Flood - a temporary inundation of normally dry land areas.
10. Flood Insurance Rate Map (FIRM) - the official map on which the Federal Emergency Management Agency has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.
11. Flood Insurance Study (FIS) - the official report provided by the Federal Emergency Management Agency that includes flood profiles, the Flood Insurance Rate Map, the Flood Boundary and Floodway Map, and the water surface elevation of the base flood.
12. Floodplain area - a relatively flat or low land area which is subject to partial or complete inundation from an adjoining or nearby stream, river or watercourse; and/or any area subject to the unusual and rapid accumulation of surface waters from any source.
13. Floodproofing - any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.
14. Floodway - the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.
15. Highest Adjacent Grade: The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.
16. Historic structure – any structure that is:
 - Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
 - Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
 - Individually listed on a state inventory of historic places in states which have been approved by the Secretary of the Interior; or
 - Individually listed on a local inventory of historic places in communities with historic preservation that have been certified either:

By an approved state program as determined by the Secretary of the Interior
or
Directly by the Secretary of the Interior in states without approved programs.

17. Lowest floor - the lowest floor of the lowest fully enclosed area (including basement). An unfinished, flood resistant partially enclosed area, used solely for parking of vehicles, building access, and incidental storage, in an area other than a basement area is not considered the lowest floor of a building, provided that such space is not designed and built so that the structure is in violation of the applicable non-elevation design requirements of this Article.
18. Manufactured home - a structure, transportable in one or more sections, which is built on a permanent chassis, and is designed for use with or without a permanent foundation when attached to the required utilities. The term includes park trailers, travel trailers, recreational and other similar vehicles which are placed on a site for more than 180 consecutive days.
19. Manufactured home park or subdivision – a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.
20. Minor repair - the replacement of existing work with equivalent materials for the purpose of its routine maintenance and upkeep, but not including the cutting away of any wall, partition or portion thereof, the removal or cutting of any structural beam or bearing support, or the removal or change of any required means of egress, or rearrangement of parts of a structure affecting the exitway requirements; nor shall minor repairs include addition to, alteration of, replacement or relocation of any standpipe, water supply, sewer, drainage, drain leader, gas, oil, waste, vent, or similar piping, electric wiring or mechanical or other work affecting public health or general safety.
21. New construction - structures for which the start of construction commenced on or after November 2, 2012, and includes any subsequent improvements to such structures. Any construction started after December 2, 1980 and before the November 2, 2012 is subject to the ordinance in effect at the time the permit was issued, provided the start of construction was within 180 days of permit issuance.
22. New manufactured home park or subdivision – a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.
23. Permit – the term permit as used throughout this Article shall mean a Zoning Permit which is required by the Lehman Township Zoning Ordinance for the use of property as set forth in Section 1402 of Lehman Township Zoning Ordinance. The regulations contained within this Article shall be deemed to be supplemental as an overlay to the underlying regulations contained in the Zoning District in

which a property is located.

24. Person - an individual, partnership, public or private association or corporation, firm, trust, estate, municipality, governmental unit, public utility or any other legal entity whatsoever, which is recognized by law as the subject of rights and duties.
25. Recreational vehicle - a vehicle which is built on a single chassis; not more than 400 square feet, measured at the largest horizontal projections; designed to be self-propelled or permanently towable by a light-duty truck; not designed for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.
26. Regulatory flood elevation - the base flood elevation (BFE) plus a freeboard safety factor of one and one-half (1 ½) feet.
27. Repetitive loss – flood related damages sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on average, equals or exceeds 25 percent of the market value of the structure before the damages occurred.
28. Special flood hazard area (SFHA) - means an area in the floodplain subject to a 1 percent or greater chance of flooding in any given year. It is shown on the FIRM as Zone A, AO, A1-A30, AE, A99, or, AH.
29. Start of construction - includes substantial improvement and other proposed new development and means the date the Permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days from the date of the permit and shall be completed within twelve (12) months after the date of issuance of the permit unless a time extension is granted, in writing, by the Floodplain Administrator. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufacture home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first, alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.
30. Structure – a walled and roofed building, including a gas or liquid storage tank that is principally above ground, as well as a manufactured home.
31. 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 acres, not involving any new street or easement of access or any residential dwelling, shall be exempted.

32. Substantial damage - damage from any cause sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceeds fifty (50) percent or more of the market value of the structure before the damage occurred.
33. Substantial improvement - any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage" or "repetitive loss") regardless of the actual repair work performed. The term does not, however, include any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions.

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

34. Uniform Construction Code (UCC) – The statewide building code adopted by The Pennsylvania General Assembly in 1999 applicable to new construction in all municipalities whether administered by the municipality, a third party or the Department of Labor and Industry. Applicable to residential and commercial buildings, The Code adopted The International Residential Code (IRC) and the International Building Code (IBC), by reference, as the construction standard applicable with the State floodplain construction. For coordination purposes, references to the above are made specifically to various sections of the IRC and the IBC.
35. Violation - means the failure of a structure or other development to be fully compliant with the applicable flood plain management regulations of Lehman Townships set forth in this Article. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in 44 CFR § 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(4) or (e)(5) and within this Article is presumed to be in violation until such time as that documentation is provided.

SECTION 1308 DESIGNATION OF THE FLOODPLAIN ADMINISTRATOR

The Zoning Officer is hereby appointed to administer and enforce the provisions of this Article and is referred to herein as the Floodplain Administrator.

SECTION 1309 PERMITS REQUIRED

A Permit shall be required before any construction or development is undertaken within any area of Lehman Township.

SECTION 1310 DUTIES AND RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR

- A. The Floodplain Administrator shall issue a Permit only after it has been determined that the proposed work to be undertaken will be in conformance with the requirements of this Article and all other applicable codes and ordinances.
- B. Prior to the issuance of any permit, the Floodplain Administrator shall review the application for the permit to determine if all other necessary government permits required by state and federal laws have been obtained, such as those required by the Pennsylvania Sewage Facilities Act (Act 1966-537, as amended); the Pennsylvania Dam Safety and Encroachments Act (Act 1978-325, as amended); the Pennsylvania Clean Streams Act (Act 1937-394, as amended); and the U.S. Clean Water Act, Section 404, 33, U.S.C. 1344. No permit shall be issued until this determination has been made.
- C. In the case of existing structures, prior to the issuance of any Development/Permit, the Floodplain Administrator shall review the history of repairs to the subject building, so that any repetitive loss issues can be addressed before the permit is issued.
- D. During the construction period, the Floodplain Administrator or other authorized official shall inspect the premises to determine that the work is progressing in compliance with the information provided on the permit application and with all applicable municipal laws and ordinances. He/she shall make as many inspections during and upon completion of the work as are necessary.
- E. In the discharge of his/her duties, the Floodplain Administrator shall have the authority to enter any building, structure, premises or development in the identified floodplain area, upon presentation of proper credentials, at any reasonable hour to enforce the provisions of this Article.
- F. In the event the Floodplain Administrator discovers that the work does not comply with the permit application or any applicable laws and ordinances, or that there has been a false statement or misrepresentation by any applicant, the Floodplain Administrator shall revoke the Permit and report such fact to the Board of Supervisors for whatever action it considers necessary.
- G. The Floodplain Administrator shall maintain all records associated with the

requirements of this Article including, but not limited to, permitting, inspection and enforcement.

- H. The Floodplain Administrator shall consider the requirements of the 34 PA Code and the 2009 IBC and the 2009 IRC or latest revisions thereof. Application Procedures and Requirements

SECTION 1311 APPLICATION PROCEDURES AND REQUIREMENTS

- A. Application for such a Permit shall be made, in writing, to the Floodplain Administrator on forms supplied by Lehman Township. Such application shall contain the following:
1. Name and address of applicant.
 2. Name and address of owner of land on which proposed construction is to occur.
 3. Name and address of contractor.
 4. Site location including address.
 5. Listing of other permits required.
 6. Brief description of proposed work and estimated cost, including a breakout of flood-related cost and the market value of the building before the flood damage occurred where appropriate.
 7. A plan of the site showing the exact size and location of the proposed construction as well as any existing buildings or structures.
- B. If any proposed construction or development is located entirely or partially within any identified floodplain area, applicants for Permits shall provide all the necessary information in sufficient detail and clarity to enable the Floodplain Administrator to determine that:
1. all such proposals are consistent with the need to minimize flood damage and conform to the requirements of this Article and all other applicable codes and ordinances;
 2. all utilities and facilities, such as sewer, gas, electrical and water systems are located and constructed to minimize or eliminate flood damage; and
 3. adequate drainage is provided so as to reduce exposure to flood hazards.
 4. structures will be anchored to prevent floatation, collapse, or lateral movement.
 5. building materials are flood-resistant.

6. appropriate practices that minimize flood damage have been used.
 7. electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities have been designed and/or located to prevent water entry or accumulation.
- C. Applicants shall file the following minimum information plus any other pertinent information as may be required by the Floodplain Administrator to make the above determination:
1. A completed Zoning Permit Application Form.
 2. A plan of the entire site, clearly and legibly drawn at a scale of one (1) inch being equal to one hundred (100) feet or less, showing the following:
 - a. north arrow, scale, and date;
 - b. topographic contour lines, if available;
 - c. the location of all existing and proposed buildings, structures, and other improvements, including the location of any existing or proposed subdivision and development;
 - d. the location of all existing streets, drives, and other access ways; and
 - e. the location of any existing bodies of water or watercourses, identified floodplain areas, and, if available, information pertaining to the floodway, and the flow of water including direction and velocities.
 3. Plans of all proposed buildings, structures and other improvements, drawn at suitable scale showing the following:
 - a. the proposed lowest floor elevation of any proposed building based upon North American Vertical Datum of 1988;
 - b. the elevation of the base flood;
 - c. supplemental information as may be necessary under 34 PA Code, the 2009 IBC or the 2009 IRC.
 4. The following data and documentation:
 - a. if available, information concerning flood depths, pressures, velocities, impact and uplift forces and other factors associated with a base flood elevation; and
 - b. detailed information concerning any proposed floodproofing measures and corresponding elevations.

- c. documentation, certified by a registered professional engineer or architect, to show that the cumulative effect of any proposed development within an Special Floodplain Area (See Section 1320 (B) when combined with all other existing and anticipated development, will not increase the base flood elevation more than one (1) foot at any point.
- d. a document, certified by a registered professional engineer or architect, which states that the proposed construction or development has been adequately designed to withstand the pressures, velocities, impact and uplift forces associated with the base flood.

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

- e. detailed information needed to determine compliance with Section 1325 (F). Storage, and Section 1326, Development Which May Endanger Human Life, including:
 - i. the amount, location and purpose of any materials or substances referred to in Sections 1325 (F). and 1326 which are intended to be used, produced, stored or otherwise maintained on site.
 - ii. a description of the safeguards incorporated into the design of the proposed structure to prevent leaks or spills of the dangerous materials or substances listed in Section 1326 during a base flood.
- f. the appropriate component of the Department of Environmental Protection's "Planning Module for Land Development."
- g. where any excavation or grading is proposed, a plan meeting the requirements of the Department of Environmental Protection, to implement and maintain erosion and sedimentation control.

- 5. Applications for Permits required under this Section shall be accompanied by a fee payable to the Township based upon the governing fee schedule for the improvements addressed within the subject application. The applicant shall also be responsible for the payment of any other fees associated with any other permits that may be required in accordance with Section 1311 (A) (5).

SECTION 1312

REVIEW BY COUNTY CONSERVATION DISTRICT

A copy of all applications and plans for any proposed construction or development in any identified floodplain area to be considered for approval shall be submitted by the Floodplain Administrator to the County Conservation District for review and comment

prior to the issuance of a Permit. The recommendations of the Conservation District shall be considered by the Floodplain Administrator for possible incorporation into the proposed plan.

SECTION 1313 REVIEW OF APPLICATION BY OTHERS

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

SECTION 1314 CHANGES

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

SECTION 1315 PLACARDS

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

SECTION 1316 START OF CONSTRUCTION

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

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

SECTION 1317 ENFORCEMENT

A. Notices

Whenever the Floodplain Administrator or other authorized municipal representative determines that there are reasonable grounds to believe that there has been a violation of any provisions of this Article, or of any regulations adopted pursuant thereto, the Floodplain Administrator shall give notice of such alleged violation as hereinafter provided. Such notice shall:

1. be in writing;
2. include a statement of the reasons for its issuance;
3. allow a reasonable time not to exceed a period of thirty (30) days for the performance of any act it requires;
4. be served upon the property owner or his agent as the case may require; provided, however, that such notice or order shall be deemed to have been properly served upon such owner or agent when a copy thereof has been served with such notice by any other method authorized or required by the laws of this State;
5. contain an outline of remedial action which, if taken, will effect compliance with the provisions of this Article.

B. Penalties

Any person who fails to comply with any or all of the requirements or provisions of this Article or who fails or refuses to comply with any notice, order of direction of the Floodplain Administrator or any other authorized employee of the municipality shall be guilty of a misdemeanor and upon conviction shall pay a fine to Lehman Township of not less than Twenty-five Dollars (\$25.00) nor more than Six Hundred Dollars (\$600.00) plus costs of prosecution. In addition to the above penalties all other actions are hereby reserved including an action in equity for the proper enforcement of this Article. The imposition of a fine or penalty for any violation of, or noncompliance with, this Article shall not excuse the violation or noncompliance or permit it to continue and all such persons shall be required to correct or remedy such violations and noncompliance within a reasonable time. Any development initiated or any structure or building constructed, reconstructed, enlarged, altered, or relocated, in noncompliance with this Article may be declared by the Board of Supervisors to be a public nuisance and abatable as such.

SECTION 1318 APPEALS

- A. Any person aggrieved by any action or decision of the Floodplain Administrator concerning the administration of the provisions of this Article, may appeal to the Zoning Hearing Board. Such appeal must be filed, in writing, within thirty (30) days after the decision, determination or action of the Floodplain Administrator.
- B. Upon receipt of such appeal the Zoning Hearing Board convene a hearing in

accordance with the procedures set in Article 16, SECTION 1606, HEARINGS.

- C. Any person aggrieved by any decision of the Zoning Hearing Board may seek relief there from by appeal to court, as provided by the laws of this State including the Pennsylvania Flood Plain Management Act.

SECTION 1319 IDENTIFICATION OF FLOODPLAIN AREAS

The identified floodplain area shall be any areas of Lehman Township, classified as special flood hazard areas (SFHAs) in the Flood Insurance Study (FIS) and the accompanying Flood Insurance Rate Maps (FIRMs) dated November 02, 2012 and issued by the Federal Emergency Management Agency (FEMA) or the most recent revision thereof, including all digital data developed as part of the Flood Insurance Study.

The above referenced FIS and FIRMs, and any subsequent revisions and amendments are hereby adopted by Lehman Township and declared to be a part of this ordinance.

SECTION 1320 DESCRIPTION AND SPECIAL REQUIREMENTS
OF IDENTIFIED FLOODPLAIN AREAS

Identified floodplain area shall consist of the following specific areas:

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

- A. The Floodway Area/District Identified as Floodway in the FIS which represents the channel of a watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation by more than one (1) foot at any point. This term shall also include floodway areas which have been identified in other available studies or sources of information for those special floodplain areas where no floodway has been identified in the FIS.
 - 1. Within any floodway area, no encroachments, including fill, new construction, substantial improvements, or other development shall not be permitted unless it has been demonstrated through hydrologic and hydraulic analysis performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the community during the occurrence of the base flood discharge.
 - 2. No new construction or development shall be allowed, unless a permit is obtained from the Department of Environmental Protection Regional Office.

- B. The AE Area/District without floodway shall be those areas identified as an AE Zone on the FIRM included in the FIS prepared by FEMA and for which base flood elevations have been provided in the FIS but no floodway has been delineated.
 - 1. No permit shall be granted for any construction, development, use, or

activity within any AE Area/District without floodway unless it is demonstrated that the cumulative effect of the proposed development would not, together with all other existing and anticipated development, increase the BFE than one (1) foot at any point.

- C. The A Area/District shall be those areas identified as an A Zone on the FIRM included in the FIS prepared by FEMA and for which no one-percent (1%) annual chance flood elevations have been provided. For these areas, elevation and floodway information from other Federal, State, or other acceptable source shall be used when available. Where other acceptable information is not available, the elevation shall be determined by using the elevation of a point on the boundary of the identified floodplain area which is nearest the construction site.

In lieu of the above, the municipality 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 municipality.

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

SECTION 1321 CHANGES IN IDENTIFICATION OF AREA

The identified floodplain area may be revised or modified by the Lehman Township Board of Supervisors where studies or information provided by a qualified agency or person documents the need for such revision. However, prior to any such change, approval must be obtained from the FEMA. Additionally, as soon as practicable, but not later than six (6) months after the date such information becomes available, a community shall notify the FEMA of the changes by submitting technical or scientific data.

SECTION 1322 BOUNDARY DISPUTES

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

SECTION 1323 TECHNICAL PROVISIONS

Section 1323.1 General

- A. Alteration or Relocation of Watercourse
 - 1. No encroachment, alteration, or improvement of any kind shall be made to any watercourse until all adjacent municipalities which may be affected by

such action have been notified by the municipality, and until all required permits or approvals have been first obtained from the Department of Environmental Protection Regional Office.

2. No encroachment, alteration, or improvement of any kind shall be made to any watercourse unless it can be shown that the activity will not reduce or impede the flood carrying capacity of the watercourse in any way.
 3. In addition, the FEMA and Pennsylvania Department of Community and Economic Development, shall be notified prior to any alteration or relocation of any watercourse.
- B. Technical or scientific data shall be submitted by Lehman Township to FEMA for a Letter of Map Revision (LOMR) as soon as practicable but within six (6) months of any new construction, development, or other activity resulting in changes in the BFE. The situations when a LOMR or a Conditional Letter of Map Revision (CLOMR) are required are:
1. Any development that causes a rise in the base flood elevations within the floodway; or
 2. Any development occurring in Zones A1-30 and Zone AE without a designated floodway, which will cause a rise of more than one foot in the base flood elevation; or
 3. Alteration or relocation of a stream (including but not limited to installing culverts and bridges).
- C. Any new construction, development, uses or activities allowed within any identified floodplain area shall be undertaken in strict compliance with the provisions contained in this Article and any other applicable codes, ordinances and regulations.
- D. Within any Identified Floodplain Area (See Section 1319), no new construction or development shall be located within the area measured fifty (50) feet landward from the top-of-bank of any watercourse.

SECTION 1324 ELEVATION AND FLOODPROOFING REQUIREMENTS

A. Residential Structures

1. In AE, A1-30, and AH Zones, any new construction or substantial improvement shall have the lowest floor (including basement) elevated to the base flood elevation plus one and one-half (1 ½) feet of freeboard.
2. In A Zones, where there are no Base Flood Elevations specified on the FIRM, any new construction or substantial improvement shall have the lowest floor (including basement) elevated one and one-half (1 ½) feet of above the base flood elevation in accordance with Section 1321.C.2.b of this Article.

3. The design and construction standards and specifications contained in the 2009 International Building Code (IBC) and in the 2009 International Residential Code (IRC) or the most recent revisions thereof and ASCE 24 and 34 PA Code (Chapters 401-405 as amended) shall be utilized.

B. Non-residential Structures

1. In AE, A1-30 and AH Zones, any new construction or substantial improvement of a non-residential structure shall have the lowest floor (including basement) elevated to the base flood elevation plus one and one-half (1 ½) feet of freeboard or be designed and constructed so that the space enclosed below the regulatory flood elevation:
 - a. is floodproofed so that the structure is watertight with walls substantially impermeable to the passage of water and,
 - b. has structural components with the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy:
2. In A Zones, where there no Base Flood Elevations are specified on the FIRM, any new construction or substantial improvement shall have the lowest floor (including basement) elevated one and one-half (1 ½) feet of above the base flood elevation or completely floodproofed to the regulatory flood elevation in accordance with 1321.C.2.b of this Article.
3. Any non-residential structure, or part thereof, made watertight below the regulatory flood elevation shall be floodproofed in accordance with the WI or W2 space classification standards contained in the publication entitled "Flood-Proofing Regulations" published by the U.S. Army Corps of Engineers (June 1972, as amended March 1992) or with some other equivalent standard. All plans and specifications for such floodproofing shall be accompanied by a statement certified by a registered professional engineer or architect which states that the proposed design and methods of construction are in conformance with the above referenced standards.
4. The design and construction standards and specifications contained in the 2009 International Building Code (IBC) and in the 2009 International Residential Code (IRC) or the most recent revisions thereof and ASCE 24 and 34 PA Code (Chapters 401-405 as amended) shall be utilized.

C. Space Below the Lowest Floor

1. Fully enclosed space below the lowest floor (excluding basements) which will be used solely for the parking of a vehicle, building access, or incidental storage in an area other than a basement, shall be designed and constructed to allow for the automatic entry and exit of flood waters for the purpose of equalizing hydrostatic forces on exterior walls. The term "fully enclosed space" also includes crawl spaces.

2. Designs for meeting this requirement must either be certified by a registered professional engineer or architect, or meet or exceed the following minimum criteria:
 - a. a minimum of two openings having a net total area of not less than one (1) square inch for every square foot of enclosed space.
 - b. the bottom of all openings shall be no higher than one (1) foot above grade.
 - c. openings may be equipped with screens, louvers, etc. or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

D. Historic Structures

See Section 1307 (33) for requirements for the substantial improvement of any historic structures.

E. Accessory Structures

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

1. the structure shall not be designed or used for human habitation, but shall be limited to the parking of vehicles, or to the storage of tools, material, and equipment related to the principal use or activity.
2. floor area shall not exceed 750 square feet.
3. The structure will have a low damage potential.
4. the structure will be located on the site so as to cause the least obstruction to the flow of flood waters.
5. power lines, wiring, and outlets will be elevated to the regulatory flood elevation.
6. permanently affixed utility equipment and appliances such as furnaces, heaters, washers, dryers, etc. are prohibited.
7. sanitary facilities are prohibited.
8. the structure shall be adequately anchored to prevent flotation or movement and shall be designed to automatically provide for the entry and exit of floodwater for the purpose of equalizing hydrostatic forces on the walls. Designs for meeting this requirement must either be certified by a registered professional engineer or architect, or meet or exceed the following minimum criteria:
 - a. a minimum of two openings having a net total area of not less than one (1) square inch for every square foot of enclosed space.

- b. the bottom of all openings shall be no higher than one (1) foot above grade.
- c. openings may be equipped with screens, louvers, etc. or other coverings or devices provided that they permit the automatic entry and exit of flood waters.

SECTION 1325 DESIGN AND CONSTRUCTION STANDARDS

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

A. Fill

If fill is used, it shall:

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

B. Drainage Facilities

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

C. Water and Sanitary Sewer Facilities and Systems

1. All new or replacement water supply and sanitary sewer facilities and systems shall be located, designed and constructed to minimize or eliminate flood damages and the infiltration of floodwaters.
2. Sanitary sewer facilities and systems shall be designed to prevent the discharge of untreated sewage into floodwaters.
3. No part of any on-site sewage system shall be located within any identified floodplain area except in strict compliance with all State and local regulations for such systems. If any such system is permitted, it shall

be located so as to avoid impairment to it, or contamination from it, during a flood.

4. The design and construction provisions of the UCC and FEMA #348, Protecting Building Utilities From Flood Damages and The International Private Sewage Disposal Code shall be utilized.

D. Other Utilities

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

E. Streets

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

F. Storage

All materials that are buoyant, flammable, explosive, or in times of flooding, could be injurious to human, animal, or plant life, and not listed in Section 1326, Development Which May Endanger Human Life, shall be stored at or above the Regulatory Flood Elevation and/or flood proofed to the maximum extent possible.

G. Placement of Buildings and Structures

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

H. Anchoring

1. All buildings and structures shall be firmly anchored in accordance with accepted engineering practices to prevent flotation, collapse, or lateral movement.
2. All air ducts, large pipes, storage tanks, and other similar objects or components located below the regulatory flood elevation shall be securely anchored or affixed to prevent flotation.

I. Floors, Walls and Ceilings

1. Wood flooring used at or below the Regulatory Flood Elevation shall be installed to accommodate a lateral expansion of the flooring, perpendicular to the flooring grain without causing structural damage to the building.
2. Plywood used at or below the regulatory flood elevation shall be of a "marine" or "water-resistant" variety.

3. Walls and ceilings at or below the regulatory flood elevation shall be designed and constructed of materials that are "water-resistant" and will withstand inundation.
4. Windows, doors, and other components at or below the regulatory flood elevation shall be made of metal or other "water-resistant" material.

J. Paints and Adhesives

1. Paints and other finishes used at or below the regulatory flood elevation shall be of "marine" or "water-resistant" quality.
2. Adhesives used at or below the regulatory flood elevation shall be of a "marine" or "water-resistant" variety.
3. All wooden components (doors, trim, cabinets, etc.) used at or below the regulatory flood elevation shall be finished with a "marine" or "water-resistant" paint or other finishing material.

K. Electrical Components

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

L. Equipment

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

M. Fuel Supply Systems

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

N. Uniform Construction Code Coordination

The Standards and Specifications contained 34 PA Code (Chapters 401-405), as amended and not limited to the following provisions shall apply to the above and other sections and sub-sections of this Article, to the extent that they are more restrictive and/or supplement the requirements of this Article.

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

International Residential Building Code (IRC) 2009 or the latest edition thereof:
Secs. R104, R105, R109, R323, Appendix AE101, Appendix E and Appendix J.

- A. In accordance with the Pennsylvania Flood Plain Management Act, and the regulations adopted by the Department of Community and Economic Development as required by the Act, any new or substantially improved structure which:
1. will be used for the production or storage of any of the following dangerous materials or substances; or,
 2. will be used for any activity requiring the maintenance of a supply of more than 550 gallons, or other comparable volume, of any of the following dangerous materials or substances on the premises; or,
 3. will involve the production, storage, or use of any amount of radioactive substances;

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

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

- B. Within any Floodway Area, any structure of the kind described in Subsection A., above, shall be prohibited.
- C. Within any floodplain area, any new or substantially improved structure of the kind described in Subsection A., above, shall be prohibited within the area measured fifty (50) feet landward from the top-of-bank of any watercourse.
- D. Where permitted within any floodplain area, any new or substantially improved structure of the kind described in Subsection A., above, shall be:

1. elevated or designed and constructed to remain completely dry up to at least one and one half (1 ½) feet above base flood elevation,
2. designed to prevent pollution from the structure or activity during the course of a base flood elevation.

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

SECTION 1327 SPECIAL REQUIREMENTS FOR SUBDIVISIONS

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

SECTION 1328 SPECIAL REQUIREMENTS FOR MANUFACTURED HOMES

- A. Within any FW (Floodway Area), manufactured homes shall be prohibited.
- B. Within Approximate Floodplain or Special Floodplain Area, manufactured homes shall be prohibited within the area measured fifty (50) feet landward from the top-of-bank of any watercourse.
- C. Where permitted within any floodplain area, all manufactured homes, and any improvements thereto, shall be:
 1. placed on a permanent foundation.
 2. elevated so that the lowest floor of the manufactured home is at least one and one half (1 ½) feet above base flood elevation.
 3. anchored to resist flotation, collapse, or lateral movement.
- D. Installation of manufactured homes shall be done in accordance with the manufacturers' installation instructions as provided by the manufacturer. Where the applicant cannot provide the above information, the requirements of Appendix E of the 2009 International Residential Building Code or the U.S. Department of Housing and Urban Development's Permanent Foundations for Manufactured Housing, 1984 Edition, draft or latest revision thereto shall apply and 34 PA Code Chapter 401-405.
- E. Consideration shall be given to the installation requirements of the 2009 IBC, and the 2009 IRC or the most recent revisions thereto and 34 PA Code, as amended where appropriate and/or applicable to units where the manufacturers' standards

for anchoring cannot be provided or were not established for the units(s) proposed installation.

SECTION 1329 SPECIAL REQUIREMENTS FOR RECREATIONAL VEHICLES

1. Recreational vehicles in Zones A, A1-30, AH and AE must either:
 - a. be on the site for fewer than 180 consecutive days,
 - b. be fully licensed and ready for highway use, or
 - c. meet the permit requirements for manufactured homes in Section 1328.

SECTION 1330 PROHIBITED USES

The development of the following uses and/or activities including new construction, expansion, enlargement, and/or substantial improvement, is hereby prohibited in any area of a designated One Hundred (100) Year Flood Plain:

- a. Hospitals
- b. Nursing Homes (Public or Private);
- c. Jails, Prisons, or any similar detention facility; and
- d. Manufactured home park or manufactured home subdivision.

SECTION 1331 EXISTING STRUCTURES IN IDENTIFIED FLOODPLAIN AREAS

Section 1331.1 Existing Structures

The provisions of this Article do not require any changes or improvements to be made to lawfully existing structures. However, when an improvement is made to any existing structure, the provisions of Section 1332.2 shall apply.

Section 1331.2 Improvements

The following provisions shall apply whenever any improvement is made to an existing structure located within any identified floodplain area:

- A. No expansion or enlargement of an existing structure shall be allowed within any floodway area that would cause any increase in the elevation of the base flood elevation.
- B. No expansion or enlargement of an existing structure shall be allowed within any Special Floodplain Area that would, together with all other existing and anticipated development, increase the BFE more than one (1) foot at any point.
- C. Any modification, alteration, reconstruction, or improvement, of any kind to an existing structure, to an extent or amount of fifty (50) percent or more of its market value, shall constitute a substantial improvement and shall be undertaken only in full compliance with the provisions of this Article.
- D. The above activity shall also address the requirements of the 34 PA Code, as amended and the 2009 IBC and the 2009 IRC.

- E. Any modification, alteration, reconstruction, or improvement of any kind that meets the definition of “repetitive loss” shall be undertaken only in full compliance with the provisions of this Article.

SECTION 1332 VARIANCES

Section 1332.1 General

If compliance with any of the requirements of this Article would result in an exceptional hardship to a prospective builder, developer or landowner, the Zoning Hearing Board of Lehman Township may, upon request, grant relief from the strict application of the requirements.

Section 1332.2 Variance Procedures and Conditions

Requests for variances shall be considered by the Zoning Hearing Board of Lehman Township in accordance with the procedures contained in Section 1318 of this Article and the following:

- A. No variance shall be granted for any construction, development, use, or activity within any identified floodplain that would cause any increase the BFE.
- B. No variance shall be granted for any use, activity and/or development that is prohibited under Section 1330 of this Article.
- C. Except for a possible modification of the regulatory flood elevation requirement involved, no variance shall be granted for any of the other requirements pertaining specifically to development regulated by Section 1326, Development Which May Endanger Human Life.
- D. If granted, a variance shall involve only the least modification necessary to provide relief.
- E. In granting any variance, the Zoning Hearing Board of Lehman Township shall attach whatever reasonable conditions and safeguards it considers necessary in order to protect the public health, safety, and welfare, and to achieve the objectives of this Article.
- F. Whenever a variance is granted, the Zoning Hearing Board of Lehman Township shall notify the applicant in writing that:
 - 1. The granting of the variance may result in increased premium rates for flood insurance.
 - 2. Such variances may increase the risks to life and property.
- G. In reviewing any request for a variance, the Zoning Hearing Board of Lehman Township shall consider, at a minimum, the following:
 - 1. That there is good and sufficient cause.

2. That failure to grant the variance would result in exceptional hardship to the applicant.
3. That the granting of the variance will
 - a. neither result in an unacceptable or prohibited increase in flood heights, additional threats to public safety, or extraordinary public expense,
 - b. nor create nuisances, cause fraud on, or victimize the public, or conflict with any other applicable state or local ordinances and regulations.

H. A complete record of all variance requests and related actions shall be maintained by the Zoning Hearing Board of Lehman Township. In addition, a report of all variances granted during the year shall be included in the annual report to the FEMA.

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

ARTICLE 14
ENFORCEMENT AND ADMINISTRATION

SECTION 1401 ZONING OFFICER

1401.1 APPOINTMENT

A Zoning Officer, who shall not hold any elected office within Lehman Township, shall be appointed by the Township Board of Supervisors. The Zoning Officer shall meet qualifications established by Lehman Township, which shall at minimum include a working knowledge of municipal zoning.

1401.2 DUTIES AND POWERS OF THE ZONING OFFICER

It shall be the duty of the Zoning Officer to enforce the provisions of this Ordinance in accordance with its literal terms and said Officer shall not have the power to permit any construction, alteration or any use or change of use to land or structure which does not conform to the applicable provisions within this Ordinance. The Zoning Officer's duties shall include but are not limited to the following:

- (A) Receive and review all applications for zoning permits and to approve and issue zoning permits when warranted.
- (B) Keep an official record of all business and activities, including all complaints of zoning violations of any of the provisions of this Ordinance and the resulting action of said complaints.
- (C) Conduct inspections of properties as required to fulfill his/her duties. In conducting such activities, the Zoning Officer may have access to any land, building or structure, subject to the consent and/or right of entry by the owner or tenant or by securing a search warrant issued by a Court of proper jurisdiction.
- (D) Issue permits as authorized by the Zoning Hearing Board or the Planning Commission, pursuant to the requirements and applicable procedures of this Ordinance or by written order of a Court of proper jurisdiction.
- (E) Issue Certificates of Zoning Compliance in accordance with the terms and provisions of this Ordinance.
- (F) Issue Certificates of Nonconformity to nonconforming uses and/or structures and to maintain a listing of such as required.
- (G) Maintain the Zoning Map, showing the current zoning districts of all land and the zoning text, including amendments thereto.
- (H) Notify the Zoning Hearing Board, Planning Commission or Board of Supervisors of required and/or requested hearings based upon the completion of his review and processing of applications for a zoning permit. The submission of an application for a zoning permit to the Zoning Officer and his determination that a hearing before

the Board is either required or requested shall be a prerequisite for any application being forwarded to the Zoning Hearing Board for consideration.

- (I) Participate in proceedings before the Zoning Hearing Board, Planning Commission or Board of Supervisors and at their request, furnish such facts, records and similar information which may assist them in rendering decisions.
- (J) In the event of a violation of this Ordinance, provide written notice to the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct the violation. Such written notice may be served personally or by certified mail. Corrective action may include an order to cease and desist the illegal use and/or activity of land, buildings, signs, or structures; or to remove illegal buildings, structures, additions, signs, and/or structural alterations.

SECTION 1402 ZONING PERMIT

1402.1 ISSUANCE OF PERMIT

No building, structure or sign shall be erected, constructed, moved, added to or enlarged, nor shall any land, structure or building be put to any use without first obtaining a zoning permit from the Zoning Officer. No application shall be submitted to or considered by the Zoning Hearing Board until the Zoning Officer has received an application for a Zoning Permit and has determined that an approval and/or review by the Zoning Hearing Board, Planning Commission or Board of Supervisors is required or requested by the applicant. No such permit shall be issued except in conformity with the provisions of this Ordinance or upon written approval from the Zoning Hearing Board in the form of a Special Exception, Variance or an Administrative Appeal, upon written approval from the Board of Supervisors in the form of a Conditional Use Permit or as otherwise provided for by this Ordinance or any Court of proper jurisdiction. Normal and routine maintenance and repairs to a structure, both interior and exterior, shall be exempt from obtaining a zoning permit when said activities do not result in an increase the size of the structure and/or result in a change in the use of the structure.

1402.2 FORM OF APPLICATION

All applications for permits shall be made in writing by the owner, his authorized agent or equitable owner and shall be filed with the Zoning Officer on forms prescribed by the same. All applications which seek approval, involving new construction, additions, structural alterations, a change of use and/or any other form of improvements to a property shall be accompanied by two (2) sets of plans and information which includes but is not limited to the following:

- (A) A plan drawn to scale, indicating the actual dimensions and shape of the lot to be built upon and a written statement that the applicant is the owner or authorized agent of the owner or equitable owner.
- (B) The exact size and location on the lot of existing and/or proposed structures, buildings or signs, including proposed additions thereto.

- (C) The number and type of dwelling units, if applicable.
- (D) The amount and location of parking and/or loading facilities.
- (E) The existing use and/or proposed use of the property.
- (F) The height of the building, structure and/or sign.
- (G) A detailed scale drawing of all signs, existing and proposed, indicating their location and how they are and/or will be affixed to the property.
- (H) Existing and/or proposed access to the site, including the name of the public street and/or road.
- (I) Any other information deemed necessary by the Zoning Officer to determine conformance with the provisions and regulations of this Ordinance.

1402.3 PROCESSING APPLICATIONS

The Zoning Officer shall return one (1) copy of the plans and accompanying information to the applicant upon marking such copies approved or denied and attested to the same by his signature. One (1) copy of the plans and accompanying information shall be retained by the Zoning Officer and kept on file.

1402.4 TIME PERIOD FOR PROCESSING APPLICATION

A properly completed zoning permit shall be approved or denied within thirty (30) days from the date of receipt of a completed application and plans along with any additional information as required by the Zoning Officer. A zoning permit shall not be deemed complete, until all applicable and associated fees are paid in full. In cases of denial, the applicant shall be informed of his/her rights of appeal as prescribed within this Ordinance. Such notice shall be in writing under the signature of the Zoning Officer.

1402.5 EXPIRATION OF ZONING PERMIT

A zoning permit shall expire one (1) year from the date of issuance, if the work described in said permit has not commenced, including permits authorized to be issued by the Zoning Hearing Board. If the work described within the zoning permit has commenced within the prescribed one (1) year period, the permit shall expire two (2) years from the date of issuance. In such cases, should the applicant wish to pursue the work described within the expired permit, a new application shall be required with the payment of new fees.

1402.6 REVOCATION OF PERMITS

The Zoning Officer may revoke a permit or approval issued in error under the provisions of this Ordinance or in the case of any false statements or misrepresentation of fact in the application or on the plans on which the permit or approval was based or for any other just cause as set forth in this Ordinance.

SECTION 1403 CERTIFICATE OF ZONING COMPLIANCE

A Certificate of Zoning Compliance, issued by the Zoning Officer, shall be required prior to the occupation for the use or change of use of any building, structure or land. Residential accessory structures and agricultural uses shall be exempt from securing a Certificate of Zoning Compliance. It shall be unlawful to use and/or occupy any structure, building and/or land or portions thereof in any manner until a Certificate of Zoning Compliance has been issued and obtained from the Zoning Officer.

1403.1 APPLICATIONS

All applications for a Certificate of Zoning Compliance shall be made in writing on forms prescribed by the Zoning Officer and shall include all information necessary for the Zoning Officer to ascertain compliance with the subject zoning permit and this Ordinance.

1403.2 ISSUANCE OF CERTIFICATE OF ZONING COMPLIANCE

A Certificate of Zoning Compliance shall not be issued until the Zoning Officer has certified the proposed use complies with all provisions and regulations of this Ordinance or upon written order from the Zoning Hearing Board or any Court of proper jurisdiction.

1403.3 TIME LIMITATION

An application for a Certificate of Zoning Compliance shall be approved or denied within thirty (30) days after the Zoning Officer has been officially notified of either the completion of construction or the request to occupy and use land where no construction is involved.

SECTION 1404 ENFORCEMENT PROCEDURES

1404.1 NOTICE OF VIOLATION

If in the judgment of the Zoning Officer, it appears that a violation of this Ordinance has occurred, the Zoning Officer shall initiate enforcement proceedings by sending a violation notice to the owner of record of the parcel of land on which the violation has occurred, to any person who has filed a written request to receive violation notices regarding the parcel of land and to any other person requested in writing by the owner of record. The violation notice shall include, but may not be limited to the following:

- A. The name of the owner of record and any other person against whom Lehman Township intends to take action.
- B. The location and/or address of the property in violation.
- C. The specific violations with a description of the requirements which have not been met, citing in each instance the applicable sections and provisions of this Ordinance.

- D. The date by which the steps for compliance must be commenced and the date by which the steps for compliance must be completed.
- E. That the recipient of the violation notice has the right to appeal the violation notice and request a hearing on the same before the Zoning Hearing Board within thirty (30) days from the issuance of the violation notice. Section 1606 (M) shall govern the procedural process of any appeal of a violation notice.
- F. Failure to comply with the notice within the specified time period, unless extended by an appeal to the Zoning Hearing Board, constitutes a violation, with a description of sanctions which shall result to correct or abate the violation.

1404.2 CAUSES OF ACTION

In case any building, structure, landscaping or land is, or is proposed to be, erected, constructed, reconstructed, altered, converted, maintained or used in violation of this Ordinance, Township Board of Supervisors or, with the approval of the Township Board of Supervisors, an officer or agent of Lehman Township, or any aggrieved owner or tenant of real property who shows that his property or person will be substantially affected by the alleged violation, in addition to other remedies, may institute any appropriate action or proceedings to prevent, restrain, correct or abate such building, structure, landscaping or land, or to prevent, in or about such premises, any act, conduct, business or use constituting a violation of this Ordinance. When such action is instituted by a landowner or tenant, notice of that action shall be served upon Lehman Township not less than thirty (30) days prior to the time the action is begun by serving a copy of the complaint to the Township Board of Supervisors. No action may be taken until such notice has been given.

1404.3 JURISDICTION

District Justices shall have initial jurisdiction over proceedings brought under Section 1404.4 of this Ordinance.

1404.4 ENFORCEMENT REMEDIES

Any person, partnership or corporation who or which has violated or permitted the violation of the provisions of this Ordinance shall, upon being found liable therefor in a civil enforcement proceedings commenced by Lehman Township or the Zoning Officer, shall pay a judgment of not more than five-hundred (\$500.00) dollars, plus all court costs, including reasonable attorney fees incurred by Lehman Township as a result of said proceedings. No judgment shall commence or be imposed, levied or payable until the date of the determination of a violation by the District Justice. If the defendant neither pays nor timely appeals the judgment, Lehman Township may enforce the judgment pursuant to the applicable rules of civil procedure. Each day that a violation continues shall constitute a separate violation, unless the District Justice determining that there has been a violation further determines that there has been a good faith basis for the person, partnership or corporation violating this Ordinance to have believed that there was no such violation. In such cases, there shall be deemed to have been only one such violation until the fifth day following the date of the determination of a violation by the District Justice and thereafter

each day that a violation continues shall constitute a separate violation. All judgments, costs and reasonable attorney fees collected for the violation of this Ordinance shall be paid over to Lehman Township.

The Court of Common Pleas, upon petition, may grant an order of stay, upon cause shown, tolling the per diem fine pending a final adjudication of the violation and judgment.

Nothing contained in this Section shall be construed or interpreted to grant any person or entity other than Lehman Township the right to commence any action for enforcement pursuant to this Section.

SECTION 1405 SCHEDULE OF FEES, CHARGES AND EXPENSES

The Township Board of Supervisors shall establish by resolution a schedule of fees, charges and expenses and collection procedures for Zoning Permits, Certificates of Zoning Compliance, Certificates of Nonconformance, appeals to the Zoning Hearing Board, applications for conditional uses, amendments to the Zoning Ordinance or Zoning Map and any other matters pertaining to the administration of this Ordinance. The schedule of fees, charges and expenses shall be available for public inspection and may be altered or amended by resolution of the Township Board of Supervisors. No action shall be taken on any application, appeal or certificate until all related fees, charges and expenses have been paid in full. An application shall not be deemed as filed until completed and submitted with payment in full of appropriate fees and applicable supporting documentation.

**ARTICLE 15
AMENDMENTS**

SECTION 1501 AMENDMENT PROCEDURE

The provisions of this Ordinance and the boundaries of the zoning districts as set forth upon the Zoning Map, may from time to time be amended by the Township Board of Supervisors in accordance with the provisions as set forth in the Pennsylvania Municipalities Planning Code, Act 247, as amended. Prior to adopting any amendment to this Ordinance or to the Zoning Map, the following procedures shall be met:

- (A) Any proposed amendment, not initiated by the Township Planning Commission, shall be referred to the Township Planning Commission not less than thirty (30) days prior to a public hearing before the Township Board of Supervisors to provide the Township Planning Commission an opportunity to submit any comments or recommendations regarding the proposed amendment.
- (B) Prior to voting on the enactment of any proposed amendment, the Township Board of Supervisors shall hold a public hearing pursuant to public notice. If, after any public hearing held upon a proposed amendment, said amendment is substantially changed, or is revised to include land not previously affected by the proposed amendment, the Township Board of Supervisors shall hold another public hearing before proceeding to vote on the amendment.
- (C) Any recommendation of the Township Planning Commission shall be submitted to the Township Board of Supervisors in writing.
- (D) Not less than thirty (30) days prior to the public hearing, the Township Board of Supervisors shall submit the proposed amendment to the Luzerne County Planning Commission for its comments and recommendation. In addition to the proposed amendment, the Township Board of Supervisors shall submit any required fees charged by the Luzerne County Planning Commission for their review.
- (E) Proposed action shall not be taken until the Township Planning Commission and the Luzerne County Planning Commission comments and recommendations are submitted to the Township Board of Supervisors. If either Commission fails to act within thirty (30) days, from its receipt of the proposed amendment, the Township Board of Supervisors may proceed without such recommendation.
- (F) When a proposed amendment involves a Zoning Map change, the following procedures shall be applicable:
 - 1. Notice of the public hearing shall be conspicuously posted by Township Township at points deemed sufficient along the perimeter of the tract to notify potentially interested citizens. The affected tract or area shall be posted not less than one (1) week prior to the date of the public hearing.
 - 2. Notice of the public hearing shall be mailed by Township, at least thirty (30) days prior to the date of the public hearing, by first class mail to the addresses to which real estate tax bills are sent for all real and to those properties

located within a distance of two hundred (200) feet of any property boundary line of the property subject to the proposed zone change as evidenced by tax records within the Luzerne County Tax Assessment Office. The party requesting the zoning boundary amendment shall be responsible for securing such information and providing the same to the Township. The notice shall include the location, time and date of the public hearing. A good faith effort and substantial compliance shall be deemed to satisfy this requirement. While it shall be the intent of Lehman Township to provide written notice to such owners, failure to do so shall not invalidate an otherwise duly enacted ordinance that amends in the Zoning Map.

3. The above requirement shall not apply when the rezoning constitutes a comprehensive rezoning.

SECTION 1502 APPLICATIONS FOR AMENDMENTS TO THE TEXT OR MAP

The application for a proposed amendment, which is not submitted as a curative amendment, to the text of this Ordinance or to the Zoning Map, shall be submitted in writing to the Zoning Officer, who shall process said application in accordance with Section 1501 of this Ordinance. An application shall contain the following information as applicable:

- (A) The applicant's name and address and/or the name and address of his authorized agent or the equitable owner.
- (B) A copy of the deed to the property, and when the applicant is not the owner of the property, appropriate documentation to establish the applicant's standing as the equitable owner.
- (C) A signed statement by the owner of record, or applicant as the case may be, attesting to the truth of the facts of all information contained within the application.
- (D) A scaled plan of the area proposed to be rezoned, which indicates abutting streets, the zone classification of adjoining properties and the names and addresses of the true and correct owners of record within the area proposed to be rezoned and physically bordering the area to be rezoned as evidenced by tax records within the Luzerne County Tax Assessor's Office.
- (E) Plans, drawings and explanatory material, which describes in detail the applicant's proposed use and/or development of the property.
- (F) Specify those Sections of this Ordinance or areas upon the Zoning Map which will be affected by the proposed amendment.

SECTION 1503 CURATIVE AMENDMENTS

1503.1 INITIATED BY LANDOWNER

A landowner who desires to challenge on substantive grounds the validity of this Ordinance or the Zoning Map, or any provision thereof, which prohibits or restricts the use

or development of land in which he has an interest, may submit a curative amendment to the Township Board of Supervisors with a written request that his challenge and proposed amendment to cure the alleged defect, be heard and decided by the Township Board of Supervisors. In addition to the written request and proposed amendment, the landowner shall also submit plans, drawings and explanatory material, which describes in detail his proposed use or development. The Township Board of Supervisors shall commence a public hearing pursuant to public notice within sixty (60) days of the landowner's request. The sixty (60) day period shall not commence until all required information and material is submitted, along with all related fees. Failure to convene a public hearing within sixty (60) days of the landowner's request shall not result in a deemed approval.

The curative amendment and supporting information shall be referred to the Township Planning Commission and the Luzerne County Planning Commission for its review and comment not less than thirty (30) days prior to the public hearing.

The public hearing before the Township Board of Supervisors shall be conducted in accordance with the procedures contained in Section 1606 of this Ordinance and all references therein to the Zoning Hearing Board shall, for the purposes of this Section, be references to the Township Board of Supervisors. Public notice of the required public hearing shall include notice of the validity of those particular provisions of this Ordinance and/or the Zoning Map which are in question, along with the place where the proposed amendment, plans, drawings, explanatory material and any other pertinent information may be examined by the public.

If the Township Board of Supervisors determines that a validity challenge has merit, it may accept a landowner's curative amendment, with or without revisions, or it may adopt an alternative amendment which will cure the challenged defects. The Township Board of Supervisors shall consider in addition to the landowner's proposed curative amendment, plans, drawings and explanatory material the following items:

- (A) The impact of the proposal upon roads, sewer facilities, water supplies, schools and other public service facilities.
- (B) If the proposal is for a residential use, the impact of the proposal upon regional housing needs and the effectiveness of the proposal in providing housing units of a type actually available and affordable by classes of persons otherwise unlawfully excluded by the challenged provisions of this Ordinance and/or Zoning Map.
- (C) The suitability of the site for the intensity of use proposed in relationship to the site's soils, slopes, woodlands, flood plains, aquifers, natural resources and other natural features.
- (D) The impact of the proposed use on the site's soils, slopes, woodlands, wetlands, flood plains, aquifers, natural resources and other natural features, in relationship to the degree to which these are protected or destroyed, the tolerance of the resources to development and any adverse environmental impacts.
- (E) The impact of the proposal on the preservation of agriculture and any other land uses which are essential to the public health and welfare.

The proposed curative amendment shall be deemed denied in accordance with any of the following:

- (A) Failure to commence the public hearing within sixty (60) days of the landowner's request.
- (B) When the Township Board of Supervisors notifies the landowner that it will not adopt the curative amendment.
- (C) When the Township Board of Supervisors adopts another curative amendment which is unacceptable to the landowner.
- (D) When the Township Board of Supervisors fails to act on the request within forty-five (45) days after the close of the last public hearing on the request, unless the time is extended by mutual consent by the landowner and the Township Board of Supervisors.

1503.2 INITIATED BY THE TOWNSHIP

If the Township Board of Supervisors determines this Ordinance or the Official Zoning Map, or any portion thereof, to be substantially invalid, it shall declare such by a formal action and propose to prepare a curative amendment to overcome such invalidity. Within thirty (30) days following said declaration, the Township Board of Supervisors shall by resolution make specific findings setting forth the declared invalidity which may include:

- (A) References to specific uses which are either not permitted or not permitted in sufficient quantity.
- (B) Reference to a class of use or uses which require revision.
- (C) Reference to the entire Ordinance and/or Map which requires revisions.

Within one hundred eighty (180) days from the date of the declaration and proposal as set forth in this Section, the Township Board of Supervisors shall enact a curative amendment to correct those portions deemed invalid or reaffirm the validity of those portions initially deemed to be invalid. Upon the initiation of procedures as set forth in this Section, the Township Board of Supervisors shall not be required to entertain or consider any landowner's curative amendment, nor shall the Zoning Hearing Board be required to consider a substantive challenge to the validity of the Zoning Ordinance or Zoning Map, pursuant to Section 1608 (A) of this Ordinance, based upon grounds identical to or substantially similar to those specified in the Township Board of Supervisors' resolution.

The Township Board of Supervisors, having utilized the procedures as set forth in this Section, may not again utilize said procedure for a thirty-six (36) month period following the date of the enactment of a curative amendment or reaffirmation of the validity of this Ordinance and/or Zoning Map. However, if after the date of declaration and proposal, there is a substantially new duty or obligation imposed upon township by virtue of a change in statute or by virtue of a Pennsylvania Appellate Court decision, Township may utilize the provisions of this Section to prepare a curative amendment to fulfill said duty or obligation.

SECTION 1504 ENACTMENT OF AMENDMENTS

A proposed amendment to this Ordinance or to the Zoning Map shall be enacted in conformance with the following:

- (A) The Township Board of Supervisors shall conduct a public hearing pursuant to public notice and in accordance with the procedures as contained within Section 1501 of this Ordinance.
- (B) Public notice shall include the time, place and date of the meeting at which enactment will be considered and a place within Township where copies of the proposed amendment may be examined without charge or obtained for a charge not greater than the cost thereof.
- (C) Public notice shall include either the full text of the amendment or the title and a brief summary of the amendment as prepared by the municipal solicitor. If the full text is not included, then a copy of such shall be supplied to the newspaper in which the public notice is published, and an attested copy to the County Law Library.
- (D) In the event substantial changes are made to the proposed amendment, before voting upon enactment, the Township Board of Supervisors shall, not less than ten days prior to enactment, readvertise in one newspaper of general circulation in Township, a brief summary setting forth all the provisions in reasonable detail together with a summary of the changes.

SECTION 1505 NOTIFICATION TO COUNTY

Within thirty (30) days after the enactment of an amendment to this Ordinance or to the Zoning Map, a copy of the amendment shall be forwarded to the Luzerne County Planning Commission.

ARTICLE 16
ZONING HEARING BOARD

SECTION 1601 MEMBERSHIP OF BOARD

The membership of the Zoning Hearing Board shall consist of five (5) residents of Lehman Township appointed by the Board of Supervisors by resolution. The terms of office for Board members shall be five (5) years and shall be so fixed that the term of office of one member shall expire each year. The Board shall promptly notify the Board of Supervisors of any vacancies which occur. Appointments to fill vacancies shall be only for the unexpired portion of the term. Members of the Board shall hold no other office in the Township, including membership upon the Planning Commission.

SECTION 1602 ALTERNATES TO ZONING HEARING BOARD

The Township Board of Supervisors may appoint by resolution one resident of Lehman Township to serve as an alternate member of the Board. When seated pursuant to the provisions of Section 1604 of this Ordinance, an alternate shall be entitled to participate in all proceedings and discussions of the Board to the same and full extent as provided by law for Board Members, including specifically the right to cast a vote as a voting member during proceedings, and shall have all the powers and duties set forth in this Ordinance and as otherwise provided by law. An alternate shall hold no other office in the Township, including membership on the Planning Commission. An alternate may participate in any proceedings or discussions of the Board, but shall not be entitled to vote as a member of the Board unless designated as a voting alternate member pursuant to Section 1604 of this Ordinance. The term of office for an alternate member of the Zoning Hearing Board shall be one (1) year.

SECTION 1603 REMOVAL OF MEMBERS

Any Board member or alternate may be removed for malfeasance, misfeasance or nonfeasance in office or for any other just cause by the Township Board of Supervisors. Prior to any vote by the Township Board of Supervisors, the member shall receive notice fifteen (15) days in advance of the date at which it intends to take such a vote. A hearing before the Township Board of Supervisors shall be held in connection with the vote, if the member requests a hearing in writing.

SECTION 1604 ORGANIZATION OF BOARD

The Board shall elect from its own membership its officers, who shall serve annual terms as such and may succeed themselves. For the conduct of any hearing and the taking of any action, a quorum shall be not less than a majority of all the members of the Board. The Board, however, may appoint a hearing officer from its own membership to conduct any hearing on its behalf and the parties may waive further action by the Board as provided in Section 1606. If by any reason of absence or disqualification of a member, a quorum is not reached, the chairman of the Board shall designate the alternate member of the Board to be seated to establish a quorum. The alternate member of the Board shall continue to serve on the Board in all proceedings involving the matter or case for which the alternate was initially appointed until the Board has made a final determination of the matter or case.

The Board may make, alter and rescind rules and forms for its procedure, consistent with ordinances of Lehman Township and laws of the Commonwealth. The Board shall keep full public records of its business, which records shall be the property of the Township, and shall submit an annual report of its activities to the Township Board of Supervisors.

SECTION 1605 EXPENDITURES FOR SERVICES

Within the limits of appropriated funds, the Board may employ or contract for secretaries, clerks, legal counsel, consultants, and technical services which they may deem necessary to augment the Board in the performance of their duties.

SECTION 1606 HEARINGS

The Zoning Hearing Board shall conduct hearings and render decisions in accordance with the following:

- A. Notice of hearings before the Board shall be by public notice; a notice published once a week for two (2) successive weeks in a newspaper of general circulation in the Township. Such notice shall state the time and place of the hearing and the particular nature of matters to be considered at the hearing by the Board. The first publication shall not be more than thirty (30) days and the second publication shall not be less than seven (7) days from the date of the hearing.
- B. Written notice of all hearings before the Board shall be conspicuously posted on the affected property not less than one week prior to the hearing.

Written notice of all hearings before the Board shall be conspicuously posted on the affected property by the owner at least one week prior to the hearing. The owner shall provide the Hearing Board with a notarized affidavit of posting.

Written notice shall be given to the following parties:

- 1. The Zoning Officer.
- 2. The applicant.
- 3. The owner of record of the subject property before the Board, if different than that of the applicant.
- 4. The owner of record of any property which has an adjoining or contiguous property boundary with the subject property before the Board. An adjoining or contiguous property boundary shall be deemed to also include such properties which have any amount of opposite front, rear or sideyard areas including those properties that are separated from the subject property before the Board by a public or private street, road, alley and/or similar right-of-way. In cases of a corner property subject to a hearing before the Board, in addition to the owners of record with an adjoining or contiguous property boundary, notice shall also be given to any owner of record of any property which has frontage along the intersection of the public or private streets or roads in question.

5. Any party or person who has submitted a written request to receive notification on the subject property.

The applicant shall be responsible for providing the Zoning Hearing Board with the names and addresses of the true and correct owners of record based upon the records contained in the Luzerne County Tax Assessor's Office. While it shall be the intent of the Lehman Township Zoning Hearing Board to provide written notice to property owners which have a common side yard, rear yard or opposite frontage to the subject property before the Board, failure to do so, shall not represent a basis for appeal or otherwise invalidate a decision and/or finding of the Zoning Hearing Board.

- C. The Township Board of Supervisors may prescribe reasonable fees with respect to hearings before the Board. Fees for said hearings may include compensation for the secretary, and if applicable, members of the Zoning Hearing Board, notice and advertising costs and necessary administrative overhead connected with the hearing. The costs, however, shall not include legal expenses of the Board or expenses for engineering, architectural or other technical consultants or expert witnesses.
- D. The first hearing shall be held within sixty (60) days from the applicant's request, unless the applicant has agreed in writing to an extension of time. The sixty (60) day time period shall not commence until the applicant has submitted a properly completed application, with all required signatures, supporting information, the names and mailing addresses of parties to receive notice of the hearing, and all required fees. Each subsequent hearing shall be held within forty-five (45) days of the prior hearing, unless otherwise agreed to by the applicant in writing or on the record. An applicant shall complete the presentation of his case-in-chief within one hundred (100) days of the first hearing. Upon the request of the applicant, the Zoning Hearing Board or Hearing Officer shall assure that the applicant receives at least seven (7) hours of hearings within the one hundred (100) days, including the first hearing. Persons opposed to the application shall complete the presentation of their opposition to the application within one hundred (100) days of the first hearing held after the completion of the applicant's case-in-chief. An applicant may, upon request, be granted additional hearings to complete his case-in-chief provided the persons opposed to the application are granted an equal number of hearings. Persons opposed to the application may, upon written consent or consent on the record by the applicant and municipality, be granted additional hearings to complete their opposition to the application provided the applicant is granted an equal number of additional hearings for rebuttal.
- E. Hearings shall be conducted by the Board or the Board may appoint any member or an independent attorney as a hearing officer. The decision, or where no decision is called for, the findings shall be made by the Board, unless the appellant or applicant, as the case may be, in addition to the Township, agree to waive any decision or findings by the Board and accept the decision or findings of the hearing officer as final. If the decision or findings of the hearing officer are to be accepted as final, all parties to the hearing must agree to such stipulation at the outset of the hearing.

- F. The parties to the hearing shall be the Township, any person affected by the application who has made a timely appearance of record before the Board, and any other person including civic or community organizations permitted to appear by the Board. The Board shall have power to require that all persons who wish to be considered parties to the hearing enter appearances in writing on forms provided by the Board for such purpose.
- G. The presiding chairman or acting chairman of the Board or hearing officer shall have the power to administer oaths and issue subpoenas to compel attendance of witnesses and the production of relevant documents and papers, including witnesses and documents requested by parties to the hearing.
- H. The parties to the hearing shall have the right to be represented by legal counsel and shall be afforded the opportunity to respond and present evidence and arguments and to cross-examine adverse witnesses on all relevant issues.
- I. Formal rules of evidence shall not apply, but irrelevant, immaterial or unduly repetitious evidence may be excluded.
- J. The Board or the hearing officer, as the case may be, shall keep a stenographic record of the proceedings. The appearance fee for a stenographer shall be shared equally by the applicant and the Board. The cost of the original transcript shall be paid by the Board if the transcript is ordered by the Board or hearing officer, or shall be paid by the person appealing from the decision of the Board, if such appeal is made and in the event the cost of additional copies shall be paid by the person requesting such copies. In other cases the party requesting the original transcript shall bear the cost thereof.
- K. The Board, collectively or individually, or the hearing officer, shall not communicate directly or indirectly with any party or his representatives in connection with any issue before the Board involved except upon notice and opportunity for all parties to participate, shall not take notice of any communication, reports, staff memoranda, or other materials, except advice from its solicitor, unless all parties are afforded an opportunity to contest the material so noticed and shall not inspect the site or its surroundings after the commencement of hearings with any party or his representative unless all parties are given an opportunity to be present.
- L. The Board or the hearing officer, as the case may be, shall render a written decision or, if no decision is called for, provide written findings on the application within forty-five (45) days after the last hearing before the Board or hearing officer. If the application is contested or denied, each decision shall be accompanied by findings of fact and conclusions based thereon, together with the reasons therefor. Conclusions based on any provisions of the Ordinance or any other ordinance, rule or regulation, shall contain a reference to the provisions relied upon and the reasons why the conclusion is deemed appropriate in light of the facts found. If the hearing is conducted by a hearing officer, and there has been no stipulation that his decision or findings are final, the Board shall make his report and recommendations available to the parties of record within forty-five (45) days. The parties shall be entitled to make written representations thereon to the Board prior to final decision or entry of findings, with the Board's decision entered no later than thirty (30) days after the report of the hearing officer. If the Board fails to commence, conduct or complete the

required hearing as provided for under Section 1606(D), the decision shall be deemed to have been rendered in favor of the applicant, unless the applicant has agreed in writing or on the record to an extension of time. If a decision has been rendered in favor of the applicant because of the failure of the Board to meet or render a decision as herein above provided, the Board shall give public notice of said decision within ten (10) days from the last day it could have met to render a decision in the same manner as provided under Section 1606(A) and written notice of the decision shall be mailed to those parties identified under Section 1606(B). If the Board fails to provide such notice, the applicant may do so. Nothing contained within this Section shall prejudice the right of any party opposing the application to appeal the decision to a court of competent jurisdiction.

- M. In any appeal of an enforcement notice under Section 1404.1 of this Ordinance to the Zoning Hearing Board shall require that the Zoning Officer and/or Township provide its evidence first to the Board regarding the basis, nature and supporting information regarding the subject enforcement notice. Upon the conclusion of the same, the appealing party shall provide the Board with his/her evidence in contesting the subject enforcement notice. Any filing fees paid by a party to appeal an enforcement notice to the Zoning Hearing Board shall be returned to said party, if Zoning Hearing Board or any subsequent Court rules in favor of the appealing party.
- N. The final decision or, where no decision is called for, the findings shall be rendered by the Zoning Hearing Board at a public hearing and/or public meeting. A copy of the written decision or findings shall be delivered to the applicant personally or mailed to him not later than the day following the date of the Board's decision or findings. The Zoning Hearing Board shall provide by mail or otherwise, to all persons who have filed their name and address with the Board, not later than the last day of the hearing, a statement of brief notice of the decision or findings and a statement of the place and at which a copy of the full decision or findings may be examined.

SECTION 1607 MEDIATION OPTION

1607.1

Mediation may be utilized as an aid designed to supplement, as opposed to replacing, any proceedings before and under the jurisdiction of the Zoning Hearing Board. In no case, however, shall the Board or any member of the Board, initiate the use of mediation. No member of the Board shall be allowed to participate as a mediating party or be present during any sessions of mediation. Nothing within this Section shall be interpreted as expanding or limiting municipal police powers or modifying any principles of substantive law.

1607.2

Mediation shall be voluntary among all subject parties with the appropriateness of mediation determined by the particular issues of each case and the willingness among all the subject parties to negotiate. In order to supplement proceedings before the Zoning Hearing Board, the following information shall be submitted to the Board in written form and signed by all parties to the mediation, the selected mediator, and the Zoning Hearing Board.

- A. Method and commitment of funding of mediation.
- B. The mediator shall be an attorney and/or an individual who is certified by the American Arbitration Association, who shall possess a working knowledge of municipal zoning and subdivision practices and procedures.
- C. A schedule which shall clearly prescribe the time limitations for both the start and completion of mediation. The completion date shall be adhered to even if the negotiations fail to result in a mediated agreement by said date.
- D. Suspension of the appropriate time limitations which apply to the Zoning Hearing Board in convening a hearing and/or rendering a decision, once a hearing is convened, subject to executing a document of expressed written consent by the mediating parties, and by the Zoning Hearing Board.
- E. Identification of all subject parties and affording them the opportunity to participate.
- F. A determination of whether some or all of the mediation sessions shall be opened or closed to the public, subject to governing legal constraints.
- G. An agreement among the mediating parties, that any mediated solution be in written form and subject to review and approval by the Zoning Hearing Board.
- H. Any mediation which concludes within the prescribed time limits under Item C of this Section, which does resolve in whole or in part, the issues subject to mediation, shall then proceed under the hearing process before the Zoning Hearing Board.
- I. No offer or statements made in the mediation sessions, excluding the final written mediated agreement, shall be admissible as evidence in any subsequent judicial or administrative proceedings.

SECTION 1608 JURISDICTION OF ZONING HEARING BOARD

The Zoning Hearing Board, in accordance with the Pennsylvania Municipalities Planning Code, Act 247, as amended, shall have exclusive jurisdiction to hear and render final adjudication in the following matters:

- A. Substantive challenges to the validity of any land use ordinance, except for those brought before the Township Board of Supervisors under Section 1503.1 of this Ordinance.
- B. Appeals from the determination of the zoning officer, including but not limited to, the granting or denial of any permit, or failure to act on the application therefor, the issuance of any cease and desist order, the revocation of a zoning permitted/or building permit, the registration or refusal to register any nonconforming use, structure or lot or the issuance of a preliminary opinion as provided for under Section 916.2 of the Pennsylvania Municipalities Planning Code,.
- C. Appeals from a determination by the zoning officer with reference to the

administration of any flood plain provision or regulation within any land use ordinance.

- D. Applications for variances, pursuant to Section 1609 of this Ordinance.
- E. Applications for special exceptions pursuant to Section 1610 of this Ordinance.
- F. Appeals from the determination of the zoning officer or municipal engineer in the administration of any land use ordinance or provision thereof with reference to sedimentation and erosion control and storm water management not related to development which is classified as a subdivision, land development, or a planned residential development.

SECTION 1609 VARIANCES

1609.1 INITIAL DETERMINATION BY ZONING OFFICER

An application for a variance shall not be submitted to or considered by the Zoning Hearing Board until the following procedure has been completed:

1. The applicant submits an application for a Zoning Permit to the Zoning Officer in accordance with Section 1402 of this Ordinance.
2. The Zoning Officer in reviewing the subject application renders a determination that the proposed development and/or use of property fails to comply with an applicable provisions and/or regulations of this Ordinance.
3. The Zoning Officer specifies the applicable Sections of this Ordinance relative to the applicant's need to secure a variance(s) from the Zoning Hearing Board.

1609.2 PROVISIONS FOR GRANTING VARIANCES

The Zoning Hearing Board shall hear requests for variances if it is alleged that the provisions of this Ordinance inflict unnecessary hardship upon the applicant. The Board may by rule prescribe the form of application and may require preliminary application to the zoning officer. The Board may grant a variance, provided that all of the following findings are made where relevant in a given case:

1. That there are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property and that the unnecessary hardship is due to such conditions and not the circumstances or conditions generally created by the provisions of the zoning ordinance in the neighborhood or district in which the property is located.
2. That because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the zoning ordinance and that the authorization of a variance is therefore necessary to enable the reasonable use of the property.

3. That such unnecessary hardship has not been created by the appellant.
4. That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare.
5. That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible of the regulation in issue.

In granting any variance, the Board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of this Ordinance and the Pennsylvania Municipalities Planning Code, Act 247, as amended.

SECTION 1610 SPECIAL EXCEPTIONS

1610.1 INITIAL DETERMINATION BY ZONING OFFICER

An application for a special exception use shall not be submitted to or considered by the Zoning Hearing Board until the following procedure has been completed:

1. The applicant submits an application for a zoning permit to the Zoning Officer in accordance with Section 1402 of this Ordinance.
2. The Zoning Officer shall also render a determination regarding whether the proposed development and/or use is required to secure any variances from the Zoning Hearing Board, in addition to securing a special exception approval.

1610.2 PROVISIONS FOR GRANTING A SPECIAL EXCEPTION APPROVAL

The Zoning Hearing Board shall hear and decide requests for uses and/or development which are permitted as special exception uses. Special exception uses may be referred to the Planning Commission for its review, comments and recommendations prior to final action by the Board. The Board shall grant approval only upon the determination that the proposed use and/or development conforms with all applicable standards and provisions within this Ordinance and the following expressed standards and criteria:

1. The proposed use shall not jeopardize Community Development Objectives as set forth in this Ordinance and the Lehman Township Comprehensive Plan, including any updates, revisions and/or amendments thereto.
2. Public services and facilities such as streets, sewers, water, police, and fire protection shall be adequate for the proposed use and/or development.
3. Existing streets and proposed access to the site shall be adequate regarding the width and pavement for emergency service vehicles.
4. Existing streets and proposed access to the site shall be adequate to accommodate anticipated traffic volumes in a manner that avoids undue traffic congestion, and provides for the safety and convenience of pedestrian and vehicular traffic. The

proposed use shall not result in unsafe or dangerous traffic conditions.

5. The proposed use shall be compatible with adjoining development and the character of the zoning district and neighborhood in which it is proposed to be located. The nature and intensity of the operation of the proposed use shall be considered regarding its compatibility or lack thereof.
6. The proposed use shall not substantially impair the value of other property in the neighborhood where it is proposed to be located.
7. The proposed use and/or development shall not be more objectionable in its operations in terms of noise, fumes, odors, vibration, or lights than would be the operations of any permitted use in the subject Zoning District.
8. The submission of any reports and/or studies, required by the Zoning Hearing Board within the context of the definition "Impact Analysis" as contained defined in Article 2 of this Ordinance, which conclusively demonstrates that the proposed use or development will not have a negative impact upon the particular subject or subjects as defined by the Zoning Hearing Board, in requiring such reports and/or studies.
9. The proposed use and/or development shall not be injurious to the public interest.

In granting approval, the Zoning Hearing Board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of this Ordinance and the Pennsylvania Municipalities Planning Code, Act 247, as amended.

SECTION 1611 PARTIES APPELLANT BEFORE THE BOARD

Appeal and/or applications for hearings before the Zoning Hearing Board pursuant to those matters contained within Section 1609 of this Ordinance may be filed with the Board in writing by the affected landowner or by any aggrieved person or party. The Board shall not accept appeals or applications for hearings from any tenant or equitable owner of a property without the express written consent of the landowner. In such cases, the landowner's signature shall be required upon all applicable forms, applications or documents which are to be submitted to the Board.

SECTION 1612 TIME LIMITATIONS

1612.1

No person shall be allowed to file any proceeding with the Zoning Hearing Board later than thirty (30) days after an application for the development, preliminary or final, has been approved by an appropriate municipal officer, agency or body if such proceeding is designed to secure reversal or to limit the approval in any manner unless such person alleges and proves that he had no notice, knowledge, or reason to believe that such approval had been given. If such person has succeeded to his interest after such approval, he shall be bound by the knowledge of his predecessor in interest. The failure of anyone other than the landowner to appeal from an adverse decision on a tentative plan for a Planned Residential Development, pursuant to Section 709 of the Pennsylvania Municipalities Planning Code, Act 247, as amended, or from an adverse decision by a zoning officer on a challenge to the

validity of an ordinance or map based upon substantive grounds, pursuant to Section 916.2 of the Pennsylvania Municipalities Planning Code, Act 247, as amended, shall preclude an appeal from a final approval except in the case where the final submission substantially deviates from the approved tentative approval.

1612.2

Any landowner wishing to appeal a decision of the Zoning Hearing Board shall be required to file such appeal to a court of competent jurisdiction within thirty (30) days after the notice of the Board's determination is issued. Failure to do so within the prescribed thirty (30) day time period shall preclude any further appeal of the Board's decision.

SECTION 1613 STAY OF PROCEEDINGS

1613.1

Upon filing of any proceeding referred to in Section 1608 of this Ordinance, and during its pendency before the Zoning Hearing Board, all land development pursuant to any challenged ordinance, order or approval of the Zoning Officer or of any agency or body, and all official action thereunder, shall be stayed unless the Zoning Officer or any other appropriate agency or body certifies to the Board facts indicating that such stay would cause imminent peril to life or property, in which case the development or official action shall not be stayed otherwise than by a restraining order, which may be granted by the Board or by the court having jurisdiction of zoning appeals, on petition, after notice to the zoning officer or other appropriate agency or body. When the application for development, preliminary or final, has been duly approved and proceedings designed to reverse or limit the approval are filed with the Board by persons other than the applicant, the applicant may petition the court having jurisdiction of zoning appeals to order such persons to post a bond as a condition to continuing the proceedings before the Board.

1613.2

After the petition is presented, the court shall hold a hearing to determine if the filing of the appeal is frivolous. At the hearing, evidence may be presented on the merits of the case. It shall be the burden of the applicant for a bond to prove the appeal is frivolous. After consideration of all the evidence presented, if the court determines that the appeal is frivolous, it shall grant the petition for a bond. The right to petition the court to order the appellants to post bond may be waived by the appellee, but such waiver may be revoked by him if an appeal is taken from a final decision of the court.

1613.3

The question whether or not such petition should be granted and the amount of the bond shall be within the sound discretion of the court. An order denying a petition for bond shall be interlocutory.

1613.4

If an appeal is taken by a respondent to the petition for a bond from an order of the court dismissing a zoning appeal for refusal to post a bond and the appellate court sustains the

order below to post a bond, the respondent to the petition for a bond, upon motion of the petitioner and after hearing in the court having jurisdiction of zoning appeals, shall be liable for all reasonable costs, expenses, and attorney fees incurred by the petitioner.

ARTICLE 17
APPEALS

SECTION 1701 APPEALS TO COURT

The procedures set forth in Article X-A of the Pennsylvania Municipalities Planning Code, Act 247, as amended, shall constitute the exclusive mode for securing judicial review of any decision rendered or deemed to have been made under this Ordinance.