

## ARTICLE XIV

### GENERAL REGULATIONS

#### 1401. LIMIT OF ONE PRINCIPAL USE.

A maximum of one type of principal use is permitted per lot, except: a) as is permitted within a "shopping center", b) if conditional use approval is granted for 2 or more principal uses on a lot within a commercial or industrial district or c) if specifically stated as permitted by a provision of this Ordinance.

#### 1402. STREET FRONTAGE; NUMBER OF USES OR BUILDINGS.

- A. Street Frontage Required. Every principal building shall be built upon a lot with permanent access upon a public or upon a private street improved to meet Township standards or for which such improvements have been insured by the posting of a performance guarantee pursuant to the Township Subdivision and Land Development Ordinance.
- B. Multiple Occupancy. Occupancy of a principal commercial or industrial building by more than one use of similar type is specifically allowed, provided that all other requirements of this Ordinance are satisfied.

#### 1403. MAXIMUM HEIGHT OF BUILDINGS.

- A. Exemptions. No building shall exceed the maximum building height specified in the relevant district regulations of this Ordinance, except that such standard shall not apply to farm silos, communications towers, amateur radio antenna, water towers, belfries or steeples of places of worship, electrical transmission lines, elevator shafts, windmills, chimneys or other appurtenances usually required to be and customarily placed above the roof level and not intended for human occupancy. For these exempted structures, the maximum height shall be 250 feet above the average surrounding ground level.
- B. Height and Aircraft. All uses are subject to any applicable regulations of the Federal Aviation Administration and the Pennsylvania Aviation Administration regulating the heights of structures within proximity of any airport. In addition, any structure designed to have a height of 150 feet or more above average surrounding ground level must present sufficient information to the Zoning Officer that the structure would not be a hazard to air traffic.

1404. SPECIAL LOT AND YARD REQUIREMENTS, SIGHT DISTANCE AND BUFFER YARDS.

A. In General.

1. No lot, building or use shall be created or developed in such a way that it would result in another lot, building or use not being able to meet the requirements of this Ordinance. This includes, but is not limited to, setback areas, non-impervious areas and off-street parking areas.
2. Emergency Access. All buildings shall have adequate provisions for access by emergency vehicles as required by the Hecktown Volunteer Fire Company Fire Chief.
3. Setbacks Not Applicable. The accessory or principal setbacks of this Ordinance shall not apply to fences or central air conditioning units for individual dwellings. See also exemptions for certain "essential services" in Article XV.
  - a. Accuracy. The applicant is responsible to make sure that all measurements submitted to the Township are accurate.
  - b. An accessory use is only permitted on a lot that includes a principal use, except that a 1 or 2 vehicle garage or residential storage shed may be placed on a lot that abuts the lot containing the principal use.
  - c. Any principal use, accessory use, conditional use, special exception use or nonconforming use which is established, operated or conducted by any person other than the owner of the lot upon which such use is located, without express prior written permission, consent, authorization, lease, agreement or other written documentation from one (or more) of the holder(s) of the fee simple legal title to said lot; or in lieu of such documentation, without the lot being subject to a pending or final action, adjudication or decree, in the nature of a adverse possession, quiet title, or ejectment, as the case may be, which would grant or result in the same or similar rights; is hereby declared to be a violation of this Ordinance, illegal and a public nuisance.
  - d. The Zoning Officer may permit a one-story structure with a total floor area of less than 300 square feet that is accessory to a permitted dwelling unit to be placed a minimum of 2 feet along a side lot line or rear lot line that does not abut a street if all owners of record of property along such side or rear lot line provide a written signed notarized statement stating that they have no objection to such reduced setback.

- e. Wood decks that are not enclosed and are not covered by a permanent roof and that are attached to a dwelling may extend a maximum of 20 feet into a required rear yard setback. All decks must comply with the Township Building/BOCA Codes. Additionally no setback shall be required for a residential patio provided all of the following conditions are met: a) the patio is neither covered by a permanent roof nor enclosed by walls, b) the patio is setback a minimum of 10 feet from any residential lot line other than a lot line along which dwellings are attached, and c) the patio is not raised more than 3 feet above the ground level facing an adjacent dwelling.

B. Exceptions to Minimum Lot Areas, Lot Widths and Yards.

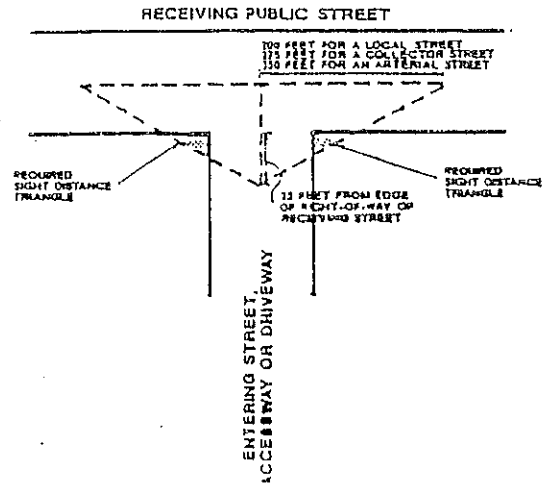
1. Nonconforming Lots. See Section 1409.
2. Through Lots. Any lot having frontage on 2 approximately parallel streets (not including an alley) shall provide a required front yard setback abutting each of these streets.
3. Corner Lots. Setback areas equal to the minimum front yard setback shall be provided along all portions of a corner lot abutting any public street, except where the applicant proves to the satisfaction of the Zoning Officer that the provision of a smaller setback of a different yard for a residential building will conform with the clearly prevailing yard pattern on existing developed adjoining lots fronting on the same street.
4. Projections Into Required Yards. Cornices, eaves, sills or other similar architectural features, exterior stairways, fire escapes or other required means of egress, rain leads or chimneys or other similar structures that do not include space usable by persons may extend or project into a required yard not more than 3 feet, except in a drainage or utility easement.
5. Septic Systems. Nothing in this Ordinance shall prevent the Township Sewage Enforcement Officer from requiring a minimum lot size larger than what is stated in this Ordinance to carry out State and Township sewage regulations.
6. Previously Approved Setbacks. Where a residential subdivision was granted final approval prior to the adoption of this Ordinance, and the lawful setbacks in effect at such time are shown on the approved plans, those approved setbacks may apply in place of the setbacks in this Ordinance.
7. Flag lots are prohibited in all districts.

C. Sight Distance at Intersections.

1. Sightlines at Intersections.

- a. Intent. To ensure that traffic passing through an intersection or turning onto a street can safely see oncoming traffic.
- b. A triangular area as defined in Section 1404.C.1.d. and e. shall be graded and shall be kept free of sight obstructions between the ground level and a height of 10 feet, including structures non-transparent fences, vegetation and signs (but not including sign posts of less than 1 feet in width or the trunks of deciduous trees).
- c. This sight distance triangle shall be shown on an official site plan and on any record plan that may be required. Such triangle shall serve as a permanent setback line for all such visual obstructions, and shall be binding upon present and future owners of the land.
- d. If a driveway, accessway or street would enter onto a State street, the required sight distance shown on the official plan shall be the applicable minimum sight distance required by Penn DOT.
- e. If minimum sight distance requirements would not be established by Penn DOT, then the sight distance triangle shall be as follows: the triangle shall be measured based upon the intersecting point of the centerlines of the street receiving the traffic and the entering street, accessway or driveway. The sight distance triangle shall be established by a distance along the centerline of the receiving street (established below) and a distance (measured along the centerline of the entering street, accessway or driveway) 25 feet back from the edge of the existing right-of-way of the receiving street. The following distances shall be used along the centerline of the receiving street in each direction from the intersection to establish the sight distance triangle:
  - (i) 350 feet along the centerline of any arterial street
  - (ii) 275 feet along the centerline of any collector street
  - (iii) 200 feet along the centerline of any local street.

Required sight distance triangle:



- f. These sight distance requirements shall apply to all intersections involving a public street and another street, accessway or driveway, except these requirements shall not apply to an individual driveway serving only one or two dwelling units that enters onto a local or collector street.
- g. A sight distance triangle shall be apply for each direction of approach to an intersection.

D. Buffer Yards. Buffer yards and screening complying with the following standards shall be required under the following situations:

- 1. Buffer Yard Width, When Required. Buffer yards with evergreen screening shall be required in the following situations:

Buffer Yard to be Provided by the following	When the Use Providing the Screening and Buffer is:	Width of Required Buffer Yard (in feet)
Any newly developed or expanded industrial use or industrial storage or loading area	Abutting a residential or agricultural district or within 250 feet of an existing dwelling.	75
Any newly developed or expanded commercial or institutional use .	Abutting a residential or agricultural district or within 250 feet of an existing dwelling	75
Any newly developed or expanded industrial outdoor storage or area routinely used for the parking of 4 or more tractor-trailers.	Abutting the existing right-of-way of an expressway, arterial or collector street.	75
Any Use	Required to provide a buffer yard under another section of this Ordinance.	75
Any Use.	In an Agricultural District or Public Recreation Area	75

2. Location of Buffer Yards.

- a. The buffer yard shall be measured from the district boundary line, future street right-of-way line or lot line, whichever is applicable.
- b. Buffer yards shall not be within a future street right-of-way and shall be in addition to that right-of-way.
- c. The buffer yard may include areas within a required front, side or rear yard, or a paved area setback area provided the larger yard requirement shall apply in case of conflict.
- d. A business use shall not be required to provide a buffer yard for an adjacent residential use or district if they are separated by an expressway.

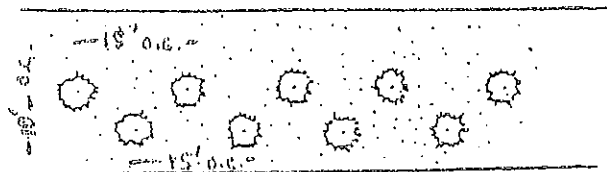
3. Characteristics of Buffer Yards.

- a. The buffer yard shall be a landscaped area free of structures, dumpsters, commercial or industrial storage or display, manufacturing or processing activity, materials, loading and unloading areas or vehicular parking. No new driveways or streets shall be permitted in the buffer yards except at points of ingress or egress.
- b. Maintenance. In all buffer yards, all areas not covered by trees and shrubs shall be well-maintained in an all-season natural ground cover (such as grass) and shall be kept free of debris and rubbish and shall not involve grass more than 8 inches in height.
- c. Preservation of existing vegetation or slopes. Where a buffer yard would be required and an existing tree line, thick vegetation or steep slopes presently serves as a natural buffer, this buffer shall be maintained for the width required under Section 1404.D.1. See also Section 1617. If this requirement is violated, the applicant shall be required to plant a buffer yard that will be closely similar in effect, density and character to the buffer yard that was removed.
- d. If a substantial natural berm or slope or dense vegetation will be maintained and will be substantial enough to meet the buffer provisions of this Section, or if topographic conditions or the creation of berming by the developer would clearly relieve the need and cause for screening, the Zoning Officer may waive the required evergreen screening.
- e. Fence. Any fence that may be constructed shall be on the inside of any required evergreen screening.
- f. If an earth berm is required by a provision of this Ordinance, it shall meet the following requirements:
  - (i) The berm shall have a minimum average height of 5 feet above the average finished ground level (disregarding drainage channels) on the school or residential side of the berm.
  - (ii) Evergreen screening required in a buffer yard by Section 803 shall be placed on the top or on the school/residential side of the berm.

- (iii) The berm shall be continuous along such boundary, except: a) at approved driveway entrances and exits, and b) along segments where it is impossible to provide such berm while still providing adequate sight distance for traffic.
- (iv) Any chain link fencing shall be provided on the business side of the berm and properly screened with evergreens on the business side of the berm.
- (v) The berm shall have a maximum side slope of 3 horizontal to 1 vertical.
- (vi) The entire berm shall be covered by a well-maintained and attractive all-season vegetative ground cover.
- (vii) The berm may be located within a required buffer yard.

4. Planting Screen.

- a. Each buffer yard shall include a planting screen of evergreen (as opposed to deciduous) trees or shrubs extending the full length of the lot line.
- b. Each planting screen shall be in accordance with the following requirements and placed on the recorded plan:
  - (i) Required plant materials shall have a minimum height when planted of 6 feet.
  - (ii) The planting screen shall be permanently maintained by the landowner. Dead plant material shall be replaced within 6 months.
  - (iii) The planting screen shall be so placed that at maturity it will be at least 8 feet from any cartway and will not grow over an exterior lot-line.
  - (iv) The planting screen shall be broken only at points of vehicular or pedestrian access and shall comply with the sight distance requirements of Section 1404.C.
  - (v) Evergreen trees (as opposed to shrubs) shall be planted at off-sets to allow space for future growth, as seen in the sketch below.



5. Plans.

- a. Prior to the issuance of a permit under this Ordinance where a buffer yard would be required, and on any required subdivision or land development plan and Site Plan Review application, the applicant shall submit plans showing
  - (i) the location and arrangement of each buffer yard,
  - (ii) the placement, species and size of all plant materials, and
  - (iii) the placement, size, materials and type of all fences to be placed in such buffer yard.
- b. The Zoning Officer shall review such plans to determine that the plans are in conformance with the terms of this Ordinance.

In the case of a buffer yard shown on a subdivision or land development plan or Site Plan Review application, the buffer shall be reviewed by the Township Planning Commission and must be approved by the Township Board of Supervisors.

6. Species of Plants. Evergreen trees and shrubs shall be of the following species, unless applicant proves to satisfaction of the Zoning Officer that a substitution would be appropriate.

- a. Evergreens - *Ilex opaca* - American Holly  
*Larix decidua* - European Larch  
*Picea omorika* - Serbian Spruce  
*Picea pungens* - Colorado Spruce  
*Pinus thunbergi* - Japanese Black Pine  
*Picea glauca* - White Spruce  
*Picea abies* - Norway Spruce  
*Pseudotsuga taxifolia* - Douglas Fir  
*Tsuga canadensis* - Canada Hemlock  
*Tsuga caroliniana* - Carolina Hemlock
- b. Hedge - *Crataegus crusgalli* - Cockspur Thorn  
*Crataegua phanenopyum* - Washington Hawthorn  
*Elaeagnus angustifolia* - Russian Olive  
*Euonymus alatus* - Winged Euonymus  
*Viburnum sieboldi* - Siebold Viburnum  
*Viburnum tomentosum* - Doublefile Viburnum
- c. Evergreen Shrubs - *Juniperus virginiana* - Upright Juniper  
*Juniperus shinensis* - Spreading Juniper

Ilex - Japanese Holly  
Pinus mugo - Dwarf Pine  
Pyracantha lalandei - Laland Firethorn  
Taxus capitata - Upright or Spreading Yew  
Taxus hicksi - Hicks Yew  
Thuja occidentalis-American Arborvitae

1405. LANDSCAPING.

- A. Groundcover. Any part of a commercial, industrial or institutional lot which is not used for structures, loading areas, parking spaces and aisles, sidewalks and designated storage areas shall be provided with an all-season, well-maintained natural groundcover, and shall be landscaped with trees and shrubs. Mulch is not allowed along any new structure, and mulch beds are not considered vegetative cover without shrubs or trees. Groundcover shall not be substituted for required screening materials.
- B. See Section 1703.H., Paved Area Landscaping, Section 1702.I., Parking Lot Screening, Section 1404.D., Buffer Yards and any Street Tree Requirements of the Subdivision and Land Development Ordinance. No landscaping within parking areas shall be placed or allowed to grow to obscure the vision of drivers within the parking lot. Generally, shrubs shall be low growing and not provide a visual barrier to drivers at a height between two (2) and four (4) feet.

1406. ESTABLISHMENT OF FUTURE RIGHT-OF-WAY WIDTHS FOR STREETS.

- A. Purpose. Minimum future right-of-way widths are established for streets where the existing right-of-way is less than that indicated in this section for the particular class of street. These future rights-of-way are designed to reserve adequate rights-of-way for future circulation improvements, including street widening, shoulders, bikeways and sidewalks, and to provide rights-of-way for needed public sewer and water lines.
- B. Dedication of Future Right-of-Way. See any requirements in the Township Subdivision and Land Development Ordinance.
- C. Measurement.
  - 1. The future right-of-way shall be measured with one-half on either side of the center line of the existing right-of-way. If the existing right-of-way is clearly significantly off-center of the cartway, the centerline of the cartway shall be used. Regardless of whether the future right-of-way is actually dedicated, the minimum yards shall be measured from the future right-of-way distance that would apply if the future right-of-way would be dedicated.

2. The specific classification of each street is shown on the Township Official Street Classification Map, at the end of this document.

- D. Minimum Widths. The following future rights-of-way for future circulation improvements shall be reserved along each street, unless a differing right-of-way is required by the Township Subdivision and Land Development Ordinance or the Board of Supervisors may approve a reduction in the minimum future right-of-way.

<u>Street Classification</u>	<u>Minimum Future Right-of-Way</u>
Expressway	120'
Arterial Street	80'

<u>Street Classification</u>	<u>Minimum Future Right-of-Way</u>
Collector Street	60'
Local and Private Street	50'

- E. Ownership and Maintenance. If the Township or Penn DOT do not accept dedication of a future right-of-way at the time of development of a use, that land shall remain a part of the adjacent lot and be reserved for future dedication until such time as the Township or PennDOT agree to accept dedication.

1407. INDUSTRIAL AND COMMERCIAL DRIVEWAYS. A driveway or accessway serving a commercial or industrial use shall be deemed to be integral with such use and shall not be a permitted use in a residential district. This restriction shall not apply to a driveway or accessway that will be clearly limited to use by only emergency vehicles.

1408. ACCESS ONTO ARTERIAL STREETS.

A. Access.

1. Each lot with less than 150 feet of frontage on an arterial street shall have not more than one access point involving left-hand turns onto each such street, and no lot with 150 feet or more feet of total frontage on an arterial street shall have more than 2 access points involving left-hand turns onto any such arterial street.
  - a. This provision shall not apply to the following: 1) construction of new streets onto an existing arterial street, or 2) access points that are clearly limited to use by only emergency vehicles.
  - b. A separate ingress point and a separate egress point shall be considered one access point, if well-marked.
2. Where practicable, access to 2 or more lots shall be combined to minimize the number of access points onto an arterial street. Shared parking lots are

strongly encouraged. See possible reduction of parking requirements in Section 1701.B.

3. See the access control provisions of the Township Subdivision and Land Development Ordinance.
4. Wherever possible, a system of interior access (such as common driveways, parking courts and accessways) shall be provided that minimizes access points onto all adjacent public streets.

1409. NONCONFORMITIES.

- A. Registration of Nonconformities. It shall be the responsibility of a party asserting a nonconformity to provide the evidence that it is lawful. A property owner may register a nonconformity with the Zoning Officer.
- B. Continuation. A lawful nonconforming use, structure or lot as defined by this Ordinance may be continued, maintained, improved and repaired, provided it conforms to this section and other applicable ordinances of the Township (except as provided for in Section 1404.D.).
- C. Alteration or Expansion of Nonconformities.
  1. Nonconforming Structure.
    - a. A nonconforming structure may be altered, reconstructed or enlarged provided:
      - (i) that such alteration, reconstruction or enlargement does not increase the nonconformance or the nonconforming part of the structure, and
      - (ii) that the expansion would comply with setbacks normally required for a permitted use in that District.
    - b. In the case of a nonconforming structure which is used by a nonconforming use, any expansion or enlargement shall also meet the requirements of Section 1409.C.3.
  2. Nonconforming Lots.
    - a. Permitted structures and uses may be constructed or expanded on a non-conforming lot of record only in compliance with the following requirements:
      - (i) Lawfully Existing. A use may only be developed on a non-conforming lot if it is a lot of record that lawfully existed prior

to the adoption of this Ordinance or an applicable subsequent amendment.

- (ii) Setbacks. Yard setbacks and other requirements of this Ordinance shall be complied with unless a variance is granted by the Zoning Hearing Board, or unless the Zoning Hearing Board allows construction under the following waiver:
  - a) In a residential district, minimum yard setbacks may be reduced to a minimum of 75 percent of what would normally be required if the lot is deemed adequate for building under this section and if the Zoning Hearing Board determines that such reduction would result in the construction of a single family detached dwelling that would be more compatible with the character of adjacent residential areas than if the yard requirement was not reduced.
- (iii) Only one principal use and its customary accessory uses that are permitted by right in that District may be developed on a nonconforming lot.
- (iv) In a LDR District, as an absolute minimum, in no case shall a variance be granted for the development of a principal building on a nonconforming lot with minimum lot area of less than 5,000 square feet or a minimum lot width at the minimum building setback line of less than 45 feet.
- (v) For any variance or special exception request under this Section, the Zoning Hearing Board shall consider if any reasonable use could be made of the property other than a proposed use that would less significantly adversely affect the established character of an existing residential neighborhood.
- (vi) The nonconformity shall not have been self-created.
- (vii) Contiguous nonconforming lots under common or closely related ownership shall be considered one lot.
- (viii) Any lot proposed to use an on-lot septic system shall meet all D.E.P requirements, plus shall have sufficient open area that would also meet D.E.P requirements for a second drainfield, for use in case the first drainfield fails.

3. Expansion of A Nonconforming Use. A nonconforming use or a building used by a nonconforming use shall not be expanded or enlarged, except in accordance with the following provisions:

- a. Such expansion or enlargement shall be permitted only by special exception from the Zoning Hearing Board under the provisions of Article I.
- b. Such alteration, reconstruction, extension or enlargement shall be only upon the same lot that the nonconforming use was located upon at the time the use became nonconforming.
- c. A nonconforming use shall not be increased in total floor area of

buildings, total area covered by impervious surfaces or total number of dwelling units by greater than 50 percent beyond each such measurement that existed in such use at the time such use becomes nonconforming. Whichever of these limitations is most restrictive shall apply. This maximum increase shall be measured in aggregate over the entire life of the nonconformity.

- d. Any expansion of a nonconforming use shall meet the required setbacks, unless a variance is granted by the Zoning Hearing Board.
- e. In a residential district, as a minimum, a nonconforming use proposed to expand shall meet the setback requirements that would otherwise apply to a single family detached dwelling, unless the Zoning Hearing Board determines that larger setbacks are justified. The fact that an existing lawful lot of record does not meet the minimum lot width requirements of this Ordinance shall not by itself cause such lot to be considered to be a nonconforming lot. An existing non-conforming residential use may be expanded in floor area as a permitted by right use provided that: a) the number of dwelling units is not increased, b) the expansion meets all applicable setbacks, c) no new types of non-conformities are created and d) a nonconformity is not made more severe (including the building area within the required setback area).

D. Damaged or Destroyed Nonconformities.

1. A nonconforming structure that has been destroyed or damaged equal to 50 percent or more of its total value by fire, windstorm, lightning or a similar cause deemed to be not the fault of the owner may rebuild in a nonconforming fashion only if the application for a building permit is submitted within 30 days after the date of damage or destruction, and work begins in earnest within 12 months afterwards. A nonconformity may not be increased by any reconstruction.
2. No rebuilding shall be undertaken as provided herein until plans for rebuilding have been presented to and approved by the Zoning Officer. Any change of one nonconforming use to another nonconforming use shall comply with the provisions of this section.

E. Ownership. Whenever a nonconforming use, structure or lot is sold to a new owner, a previously lawful nonconforming use may be continued by the new owner, within the requirements of this Ordinance.

F. Abandonment of a Nonconformity.

1. If a nonconforming use of a building or land is discontinued, razed, removed or abandoned for 12 months, except as provided for in Section 1409.F.3.,

subsequent use of such building or land shall conform with the regulations of the district in which it is located.

2. The applicant shall be responsible to provide evidence that the nonconformity was not abandoned. Abandonment and the intent to abandon shall be presumed to commence on the date when customary efforts to continue the use cease. Such efforts shall be limited to the following:
  - a. for a residential use, actual habitation of the premises,
  - b. for a business use, actual conduct of business on the premises,
  - c. active attempts to sell the property for such a use or to formally apply for financing for such a use,
  - d. actual purchase of a property for such a use,
  - e. substantial financial and/or labor investment in a property for such a use, and
  - f. actual application to the Zoning Hearing Board for a use.
3. Nonconforming Use of Open Land. All nonconforming off-premise signs, junkyards, outside storage areas and similar nonconforming uses of open land, when discontinued for a period of 90 days or damaged to an extent of 50 percent or more of replacement cost, shall not be continued, repaired or reconstructed. For parking of commercial vehicles, see Section 1704.

G. Changes from One Nonconforming Use to Another.

1. Once changed to a conforming use, no structure or land shall be permitted to revert to a nonconforming use. However, Special Exception approval is not needed for a simple change within an existing building from one lawful nonconforming retail store use to another retail store use or from one lawful nonconforming personal service use to another personal service use provided that the new use complies with any Zoning Hearing Board conditions that applied to the previous use and is not more objectionable in external effects than the previous use.
2. A nonconforming use may be changed to another nonconforming use only if permitted as a Special Exception by the Zoning Hearing Board after the following conditions are met:
  - a. The applicant shall show that the nonconforming use cannot reasonably be changed to a conforming use.
  - b. The applicant shall show that the proposed change will be equally or less objectionable in external effects than the existing nonconforming use with regard to:

- (i) Traffic generation (especially truck traffic),
  - (ii) Noise, dust, fumes, vapors, gases, odor, glare, vibration, fire and explosive hazards,
  - (iii) Amount and character of outdoor storage, Hours of operation and
  - (iv) Compatibility with the character of the surrounding area.
- 3. A nonconforming use which is found to meet the criteria (2 above) as a Special Exception by the Zoning Hearing Board after the above conditions are met shall not be considered a non-conforming use because it did not predate the enactment of the zoning ordinance. No natural expansion shall occur as the doctrine of natural expansion does not apply as the use did not predate the ordinance.
- H. District Changes. Whenever the boundaries of a district are changed so as to transfer an area from one district to another district, the provisions of this Section shall also apply to any nonconforming uses or structures existing in the district to which the area was transferred.
- I. Floodplain Area. In the Floodplain Area, as defined by the Township Floodplain Ordinance, all nonconforming structures and uses, including agricultural, shall be subject to the following:
  - 1. Existing nonconformities located in such district shall not be extended, expanded or enlarged.
  - 2. Any modification, alteration, repair, reconstruction or improvement of any kind to an existing nonconformity, to an extent or amount of less than 50 percent of its market value, shall be elevated and/or floodproofed at least 1-1/2 feet above the standard project flood or the 100-year flood, whichever is greater, to the greatest extent possible.
  - 3. Any modification, alteration, reconstruction or improvement of any kind to an existing nonconformity, to an extent or amount of 50 percent or more of its market value shall be undertaken only in full compliance with the provisions of this ordinance and all other applicable Township, State and Federal ordinances and regulations.

1410. TEMPORARY STRUCTURE OR USE.

A temporary zoning permit may be issued by the Zoning Officer for structures or uses subject to the following additional provisions:

- A. Duration. In the case of a special event, except under special circumstances, this shall be a maximum of five (5) days in a sixty (60) day period. The Zoning Officer may grant approval once for a recurring event.

- B. Statement from Owner. Prior to the issuance of a permit for a temporary use or structure, the applicant shall present a statement from the owner of record of the land recognizing the application and accepting responsibility and liability to ensure that the use or structure is removed once the permit expires.
- C. Removal. Such structure or use shall be removed completely upon expiration of the permit without cost to the Township. If the structure or use is not removed in a timely fashion after proper notification, the Township may remove the use or structure at the cost of the person who owns the land upon which the structure or use is located.
- D. Bond. The Zoning Officer may require that a bond or other acceptable form of security be posted by the applicant to ensure removal of the temporary use or structure. Such a bond shall be equal to 125 percent of the cost of removing the structure or use, as estimated by the Township Engineer.
- E. Compatibility. The temporary use or structure shall be compatible with adjacent uses.
- F. Conditions. The temporary use or structure shall clearly be of a temporary nature.
- G. Construction Vehicle Parking and Temporary Offices. See Section 1503.C.16.B(6)
- H. Tents. This section shall not apply to tents erected for a maximum of (five) 5 days in any calendar year for 1) routine and customary accessory non-commercial uses and for routine and 2) customary accessory uses to an existing commercial use, which are permitted by right. All tents used for peddling purposes or solicitation (tents for selling flowers) are permitted only by special exception approval from the Zoning Hearing Board. Tents shall not be erected within retail or shopping center parking lots unless by special exception approval from the Zoning Hearing Board. All tents must be placed outside of the ultimate right-of-way of any street and must be placed on a vegetated surface.
- I. Fee. The Board of Supervisors may waive and/or return the required application fee if the applicant is a Internal Revenue Service recognized and well-established in the local community non-profit organization, and the applicant clearly shows that the proposed use is temporary and will be used to clearly primarily serve a charitable or public service purpose.
- J. Non-Profit. Only a well-established in the local community and Internal Revenue Service-recognized non-profit organization proposing a temporary use to clearly primarily serve a charitable or public service purpose shall be eligible to receive approval for a temporary commercial use in a district where that use it not permitted.

- K. Special Events. If determined by the zoning officer that this special event will attract significant numbers of the public then the Township Board of Supervisors shall, by conditional use only, permit the proposed special event. The Board of Supervisors may deny the use if they determine that sanitary and water service, traffic control, off-street parking and protection of the public health and safety have not been adequately addressed. Please refer to the Township Outdoor Amusement Ordinance as amended

1411. SITE PLAN REVIEW.

- A. Intent. This section requires a site plan review for certain uses requiring special attention to more effectively ensure compliance with this Ordinance and to provide a review of items such as traffic access. Site Plan Review does not replace the Subdivision and Land Development review process required by the Township Subdivision and Land Development Ordinance.
- B. Conditional Uses. For conditional uses, the site plan review shall be part of the requirements and review of the Conditional Use (see Section 118).
- C. When Required.
1. A site plan meeting the requirements of this Section shall be submitted for any of the following proposed uses or structures, unless such use would be required to be submitted to the Township as a subdivision or land development:
    - a. Any expansion of more than 2,000 square feet in the footprint of a structure of one the following types:
      - (i) Industrial, office, commercial, or recreational building or use,
      - (ii) School, place of worship or institutional building,
      - (iii) Structure used for animal husbandry/agriculture.
    - b. Any new or expanded paved or gravel area of greater than 5,000 square feet.
    - c. Conversion of a noncommercial or non-industrial building to a new principal commercial use.
    - d. Any change from one commercial or industrial use to a different commercial or industrial use.
  2. For any use that is a subdivision or land development per the Township's Subdivision and Land Development Ordinance, the applicant shall submit the required subdivision or land development plan to the Township for review per that Ordinance.

D. Procedure for Permitted by Right Uses Requiring Site Plan Review.

1. The procedure shall be that established for a final land development plan in the Township's Subdivision and Land Development Ordinance.
2. The use shall meet all applicable requirements of this Ordinance.
3. Data submitted shall be as required for a land development plan.

1412. HAZARDS TO PUBLIC HEALTH AND SAFETY.

- A. It is the responsibility of every property owner to ensure that their property does not threaten the public health or safety. Property owners shall remove or alter any structure or situation that threatens the public health and safety.
1. This specifically includes structurally unsound structures, including structures damaged by fire.
  2. This also includes storage areas and detention basins that are not properly secured from young children.
- B. If the Zoning Officer becomes aware of a serious threat to the public health and safety, the Zoning Officer may require that the property owner resolve the hazard. If the hazard is not removed within a reasonable period of time after such notice, the Township may remove or the hazard or contract for its removal. In such case, the property owner shall be required to compensate the Township for all such expenses for such work and any reasonable accompanying legal and administrative costs.
- C. Fire Safety. The State Department of Labor and Industry requirements for fire safety of commercial, industrial, apartment and institutional buildings shall be complied with as applicable.
- D. Clearance Height of Tree Limbs. For any tree within or extending within the existing right-of-way of a public street, the owner of such tree or of the abutting property if such tree is within the right-of way shall keep the limbs of such tree trimmed so that the growth does not obstruct light from any street light and so there shall be a clear minimum height of 10 feet above the cartway of a street and 8 feet above a sidewalk. The owner is solely responsible for the expense and removal of any diseased or damaged limbs of the tree which may fall within the right-of-ways.

1413. TRAFFIC IMPACT STUDY.

- A. Intent. To allow the Township to determine the safety and congestion impacts, and related costs, of proposed major traffic generating uses. To require that applicants respond with reasonable proposals to resolve the negative traffic impacts that their

proposed uses will cause on the public. To recognize that sufficient Federal, State and Municipal funds are not available to resolve traffic problems caused by private development.

- B. Uses Requiring a Traffic Study. Any application for any of the following uses shall be required to complete a traffic study and include the findings in a written report:
1. Residential: 20 or more dwelling units.
  2. Commercial: 10,000 square feet or more of total floor area.
  3. Office: 5,000 square feet or more of total floor area.
  4. Industrial: 10,000 square feet or more of total floor area or any truck terminal.
  5. Institutional: 5,000 square feet or more of total floor area.
  6. Any use or combination of uses that would generally result greater than 200 trips per day.
- C. Timing. Any required traffic study shall be submitted at the same time as any preliminary plan, special exception, conditional use or construction permit application, whichever is submitted earliest.
- D. Costs. The full costs of completing the study and of a review by the Township Engineer or other Township representative shall be born by the applicant.
- E. Study Area. Prior to initiation of the traffic study, the traffic engineer or planner shall meet with the Township Engineer to establish the area to be studied. This area shall be limited to streets and intersections within a maximum of one mile of the proposed project boundaries, except for a use projected to generate more than 3,000 trips per day which shall have a maximum study area of 2 miles from the project boundaries.
- F. Joint Studies. Joint traffic studies between different applicants are strongly encouraged.
- G. Fees. In place of individual traffic studies, the Board of Supervisors may require that an applicant provide a fee in lieu of a study. This fee shall only be used towards the costs of traffic studies sponsored by the Township. Any such fee shall be established by resolution or ordinance of the Board of Supervisors.
- H. Project Description. Any study shall include a description of the proposed development, its proposed access and the surrounding street system. If a development is proposed to occur in stages, each stage shall be described and taken into account in the study. If the applicant owns other lands within the study area, reasonable assumptions shall be made about how that land can be expected to be developed, and shall be taken into account.

- I. Existing Traffic Conditions. The traffic volumes and service levels during the A.M. and P.M. peak hours shall be presented for all streets and intersections in the study area that can reasonably be expected to be significantly impacted. Traffic volumes shall be based upon actual counts that occurred within the prior two years, and not upon State estimates. The locations of all accidents reportable to the State Police within the study area during a recent two-year period shall be noted.
- J. Expected Traffic Generation. The study shall include an estimate of the number of trips expected to be generated by the use and any future stages during the A.M. and P.M. peak hours. Such estimates shall be based upon the latest published estimates of the Institute of Transportation Engineers, or its successor entity, unless the applicant provides the Township with estimates and supporting documentation based upon actual traffic counts of closely similar developments in Pennsylvania or New Jersey.
- K. Projected Effects. The study shall take into account not only the use proposed by the applicant, but also other uses and developments that have received building permits or preliminary subdivision or land development approval from a municipality. The study shall project A.M. and P.M. peak hour traffic volumes and levels of service on intersections and streets within the study area. If the traffic generation by the development would be more than 50 percent greater during any hour other than the A.M. or P.M. peak hour on adjacent streets, the study shall analyze both the peak hours for the development and for adjacent streets. The study shall project what directions the traffic generated will head towards.
- L. Levels of Service. The study shall estimate the levels of service (A, B, C, D, E and F), for key traffic movements, including turning movements, following the standards of the U. S. Department of Transportation.
- M. Signal Warrants. Heavily traveled intersections at entrances to the development and other major unsignalized intersections in the study area shall be studied to determine whether a traffic signal is warranted by Penn DOT criteria. Existing traffic signals that are significantly impacted shall be studied to determine whether they are in need of upgrading.
- N. Needed Improvements. The study may take into account traffic improvements which are clearly funded and will occur within the next 2 years. The study shall include suggestions for how each congested or hazardous intersection in the study area should be improved to reduce the hazard or congestion, and a rough estimate of the cost of that improvement.
- O. Applicant's Response. The applicant shall respond to the traffic study with proposals on what traffic improvements, right-of-way dedications or commitments of financing for specific projects the applicant proposes to commit to resolve the negative traffic impacts of the proposed development. Such improvements or

financing may be staged in relation to the stages of the development. The applicant may also agree to commit towards the long-term support of a program to reduce peak-hour traffic by private vehicles, through programs such as vanpooling, support of mass transit or staggered work hours, in place of certain structural improvements.

- P. Completion of Improvements. Any traffic improvements that are required as a condition of any approval under this Ordinance or the Subdivision and Land Development Ordinance shall be in place or sufficient funds committed in escrow acceptable to the Township prior to the issuance of any needed occupancy permit, or within a staged process agreed to at the time of approval.

1414. STORM WATER MANAGEMENT.

- A. The requirements of this Section shall apply to any use which is not regulated by storm water requirements of the Township Subdivision and Land Development Ordinance.
- B. Review. All proposed storm water control methods are subject to review by the Township Engineer. All such methods shall be professionally acceptable to the Township Engineer.
- C. Limitations. Developments shall limit the rate of storm water runoff so that no greater rate of runoff will occur than occurred on the site prior to development, based upon a 5, 10 and 50 year storm, unless other storms are established in the Subdivision and Land Development Ordinance.
- D. Calculations. The applicant shall provide pre- and post-development calculations for all uses, that involve an addition of 5,000 square feet or more of impervious cover. Where crop farming or disturbed earth exists on the site prior to development, meadow in good condition shall be used as the starting base for such calculations.
- E. Protection from Injury. The quantity, velocity and direction of storm water runoff shall be managed to protect persons and property from injury.
- F. Runoff Water Quality. Appropriate methods shall be used to separate oils and greases from any storm water runoff off the lot or water that will be absorbed into the groundwater. All storm water runoff techniques and facilities shall be derived from and installed according to the Pennsylvania Best Management Practice Handbook as amended. The Zoning Officer may review and forward his comments and findings to the Township Engineer and Township Planning Commission to assure compliance with this section.

- G. Watershed Plans. Any watershed management plan officially adopted under Act 167 of 1978 or any other state or federal regulations shall govern the percentage of pre-development runoff that is released off of the site after development.
1415. RECREATION LAND, OPEN SPACE AND FEES REQUIREMENTS. See Township Open Space Ordinance.
1416. POSTING OF ADDRESS. Every principal building shall post its street number (if one has been established) in such a prominent place that it can be clearly viewed from a public street. All address numbers must be reflective or backlit in order to be seen clearly at night. All doors at the rear of a commercial business shall be labeled with the address of the business and name.
1417. CONDOMINIUM OWNERSHIP.
1. Purpose. To allow certain land uses to be developed with ownership of buildings or portions of buildings by individuals, while all or most of the land area is owned commonly and maintained by a Homeowner's Association.
  2. All lot area, setback and other requirements of this Ordinance shall be able to be met by any use or lot. However, with the approval of the Board of Supervisors, the actual division of land into separate lots with separate ownership is not required. Instead, a condominium form of ownership may be permitted.
1418. MAINTENANCE OF COMMONLY OWNED LAND. Any process of maintenance of commonly owned land shall generally follow the provisions of Sections 705.f.parts (1) and (2) of the PA. Municipalities Planning Code. Any condominium or homeowners' association agreement shall be reviewed by the Township Solicitor and require approval of the Board of Supervisors prior to recording of the deeds. Any such agreement shall be filed as part of the subdivision or land development plan.
1419. METHODS OF PRESERVING COMMON OPEN SPACE.
1. The method of ownership and preservation of any required open space shall be determined prior to preliminary subdivision or land development approval. The Township shall be given right of first refusal at the time of the such review to accept proposed open space as public open space. Required open space shall be permanently preserved by one of the following methods:
    - a. Dedication to Lower Nazareth Township as public open space, if the Board of Supervisors agree in writing to such dedication and agree to maintain such land for public open space.
    - b. Dedication to the County of Northampton as public open space, if the County Government agrees in writing to such dedication and agrees to maintain such land for public open space.

- c. Dedication to the Nazareth School District if the School District agrees in writing to accept such dedication and to use and maintain the land for public school buildings and public open space.
  - d. Dedication to a homeowner association as common open space that is not publicly-owned, with the homeowners legally bound to ensure the maintenance and preservation of such land, and with such homeowners association being incorporated with covenants and by-laws providing for the filing of assessments and/or municipal liens for the non-payment of maintenance costs for common open space that is not publicly-owned.
    - (i) Such responsibilities shall be specified as part of each deed prior to sale of each lot or dwelling unit. The Board of Supervisors may delay a dedication of maintenance responsibilities by a developer to a homeowners association until such association is incorporated and able to maintain such land.
  - e. Dedication of the land itself or dedication of a permanent conservation and/or agricultural preservation easement to an established nature conservation organization acceptable to the Board of Supervisors. If the Board of Supervisors permits only an easement to be dedicated, then the Board of Supervisors may permit such open space may remain privately owned within certain lot(s) that are larger than would otherwise be required.
  - f. Dedication of a permanent conservation and/or agricultural preservation easement to the Township, with such land remaining privately owned and part of individual lots. The Township may also require that duplicate easements be provided through agreements with both the Township and a nature conservation organization to provide increased assurance that the land will be preserved.
2. The Board of Supervisors shall only approve a development involving common open space if such Board determines that there will be an acceptable method to ensure permanent preservation of the required open space. Areas required to be preserved shall be preserved by an appropriate method (such as a homeowner association agreement) in a legal form acceptable to the Board of Supervisors, based upon review by the Township Solicitor. The Board of Supervisors may require reasonable adjustments to such agreement based upon such review.
- a. See the definition of "Open Space, Common" in Section 202 which limits the types of land that can be used to meet Common Open Space requirements.
  - b. Proper notations shall be required on the Record Plan such as a statement that the designated open states "shall not be subdivided and shall not be used for the construction of any buildings."

3. Township Maintenance. Lower Nazareth Township shall be under no obligation to maintain any common open space under this section unless the Board of Supervisors specifically accepts such responsibility in writing. Any homeowners association common open space agreement or conservation easement shall state that at its option, the Board of Supervisors may require proper essential maintenance of such land, and if such work is not completed within a reasonable period of time, the Township may at its option complete such work and collect its costs from the responsible homeowners or organization.
  
4. Type of Maintenance. Where the open space would not be dedicated to a governmental entity, the subdivision or land development plan shall state the intended type of maintenance of the open spaces. The following classes of use and maintenance may be used, or other classes that are clearly described within and approved as part of the plan submittal:
  - a. Lawn: A grass area with or without trees which may be used by the residents for a variety of purposes and which is intended to be mowed regularly.
  - b. Natural Area: An area of attractive desirable natural vegetation that is primarily intended for passive recreation, with minimal maintenance. Noxious and poisonous weeds should be controlled. Planting of additional trees as appropriate and wildflowers is recommended.
  - c. Recreation Area: An area designated for a specific recreation use, including but not limited to tennis, swimming, shuffle board, playfields and/or children's play equipment. Such areas shall be maintained so as to be safe and appropriate for the intended use.
  
5. Legally binding documents providing for the ownership and maintenance of open space that is not approved for dedication to a governmental entity shall at a minimum include the following:
  - a. Requirements that the land be used for designated purposes.
  - b. Completion of proper maintenance in perpetuity for those portions of the open space requiring maintenance.
  - c. A legally binding process to ensure that property-owners within the development are required to properly fund any needed maintenance and other expenses related to commonly-owned land, such as taxes.
  
6. If a homeowner association or similar organization is to be responsible for maintenance of open space, such organization at a minimum shall:
  - a. Be legally established prior to any dwelling units being built or sold within the development.
  - b. Require mandatory membership for each property-owner.

- c. Be responsible for liability insurance, taxes, recovery for loss sustained by casualty, condemnation or otherwise, and the maintenance of recreational and other facilities for the open space.
  - d. Require members or beneficiaries to pay their pro rata share of the costs, with the assessments levied in a manner that they can be enforced through a lien on the property.
  - e. Provide for adjustments in the assessment to members or beneficiaries in order to meet changing conditions and costs.
  - f. Not be permitted to be dissolved nor to dispose of the open space by sale or otherwise, except if the Board of Supervisors pre-approve the responsibilities and ownership of the open space being conveyed to another responsible entity.
  - g. Be restricted from selling or other utilizing such open space for construction of buildings, other than accessory buildings specifically approved as part of the development plans.
7. If the Open Space is to be dedicated to a governmental entity other than the Township, the applicant shall provide evidence that the following would be legally binding upon such entity:
- a. That the land would be accessible to, and of benefit to, the general public, within the conditions of the development approval.
  - b. That there will be no cost to the Township for maintenance of the land.
  - c. That there will be continued maintenance in perpetuity for those portions of the open space requiring maintenance, and that the entity has the ability to fund such maintenance.
  - d. Such other terms and conditions as may be required by the Township.