



ELK TOWNSHIP • CHESTER COUNTY, PENNSYLVANIA

ZONING ORDINANCE

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The Zoning Ordinance of
ELK TOWNSHIP

Chester County, Pennsylvania

July 2002

As amended by Ordinance Amendments
#2004-01, #2006-02, and #2006-04
(Supplement I)

As amended by Ordinance Amendment
#2010-06
(Supplement II)

As amended by Ordinance Amendment
#2012-02
(Supplement III)

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Preparation and Funding

This Ordinance was prepared by the Elk Township Zoning Ordinance Update Taskforce with technical assistance provided by the Chester County Planning Commission. Funding was provided, in part, through a grant from the Vision Partnership Program sponsored by the Chester County Board of Commissioners. The Ordinance has been prepared in conjunction with the principles of the County's policy plan, Landscapes, as a means of achieving greater consistency between local and county planning programs.

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**ARTICLE I
PREAMBLE**

SECTION 100. SHORT TITLE AND EFFECTIVE DATE.

This Ordinance shall be known and may be cited as the "Elk Township Zoning Ordinance of 2002, as amended". This Ordinance shall become effective five (5) days after its adoption.

Adopted the 2nd day of July, 2002.
Effective the 7th day of July, 2002.

SECTION 101. PURPOSE.

This Ordinance is enacted under and pursuant to the Pennsylvania Municipalities Planning Code, Act 247 of 1968, as amended, 53 P.S. §§ 10101 et seq., and in accordance with the community development objectives, and with consideration for the public health, safety, and welfare of the residents of Elk Township; the character of Elk Township, and the suitability of the various portions of the Township for particular uses and structures; and is designed and enacted:

- A. To preserve prime agricultural soils and farmland considering the topography, soil type, soil classification, and present use.
- B. To promote, protect, and facilitate one or more of the following:
 - 1. Preservation of natural resources (forests, wetlands, aquifers, floodplains);
 - 2. Coordinated and practical community development;
 - 3. Proper density of population;
 - 4. The provisions of adequate light and air, police protection, vehicle parking and loading space;
 - 5. Transportation, water, sewage, schools, public grounds and other public requirements; and
 - 6. The provision of safe, reliable, and adequate water supply for domestic, commercial, agricultural, or industrial uses.
- C. To prevent one or more of the following:
 - 1. Overcrowding of land, blight, danger and congestion in travel and transportation;
 - 2. Loss of health, life, or property from fire, flood, panic or other dangers.
- D. To provide for residential housing of various dwelling types encompassing all basic forms of housing within the Township.

SECTION 102. INTERPRETATION AND SCOPE.

From and after the effective date of this Ordinance, all land uses, every building or portion of a building erected, altered in respect to height or area, added to, or relocated, and every use hereafter established with any building or use accessory thereto in the Township of Elk shall be in conformity with the provisions of this Ordinance. When the provisions of this Ordinance are interpreted or applied, no less than the minimum stated standard shall be required to promote public health, safety, and general welfare. Where the provisions of this Ordinance impose greater restrictions than those of any statute, other ordinance, or regulation, the provisions of this Ordinance shall be controlling.

Any building, structure or use of a building or land existing at the effective date of this Ordinance which is not in conformity herewith may be continued, extended or changed only in accordance with the regulations herein contained relating to Article XVI, Nonconforming Uses.

SECTION 103. RELATIONSHIP TO OTHER LAWS AND REGULATIONS.

This Ordinance is not intended to repeal, abrogate, annul or interfere with any existing ordinance or enactment or with any rule, regulation, or permit adopted or issued thereunder except insofar as the aforementioned may be inconsistent or in conflict with any of the provisions of this Ordinance. Where this Ordinance imposes greater restrictions upon the use of buildings or land, upon the height and bulk of building, or prescribes larger open spaces than are required by the provisions of such ordinance, enactment, rule regulation, or permit, then the provisions of this Ordinance shall prevail.

SECTION 104. VALIDITY/SEVERABILITY.

Should any article, section, subsection, paragraph, sentence, part, or provision of this Ordinance be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the Ordinance as a whole or any part thereof.

SECTION 105. REPEALER.

Any resolution, ordinance, or part of an ordinance, including the Elk Township Zoning Ordinance of 1989, as amended, that is inconsistent with the provisions of this Ordinance, are hereby repealed by the adoption of this Ordinance. However, this Ordinance shall not affect nor prevent any pending or future prosecution of or action to abate any existing violation of said Zoning Ordinance of 1989, as amended, if the violation is also a violation of the provisions of this Ordinance.

SECTION 106. COMMUNITY DEVELOPMENT OBJECTIVES.

- A. This Ordinance has been modified in accordance with the community goals and objectives outlined in the Elk Township Comprehensive Plan (1987) and the Elk Township Open Space, Recreation and Environmental Resources Plan (1995). The goals and objectives are as follows:

1. To preserve the open, rural character of the Township and to maintain the quality of the existing scenic and rural landscape;
2. To conserve those natural features of the Township that form its character and setting, provide critical wildlife habitat, that comprise resource opportunities, or that pose threats to public health or safety when managed improperly;
3. To foster agriculture as a viable industry and as a desirable open space land use;
4. To preserve and protect the historic resources and historic character of the Township from the encroachment of incompatible land use;
5. To provide for a varied and satisfactory level of municipal services within the fiscal limits of the Township;
6. To provide the opportunity for a range of housing types within the Township that are in keeping with the rural character and are sufficient to serve the affected population and preclude any question of exclusion by the Township;
7. To continue to undertake Township administration responsibilities in both an efficient and effective manner; and
8. To monitor the process of development and periodically compare the performance of the Township against the recommendations of the Elk Comprehensive Plan, adjusting either or both as necessary.

**ARTICLE II
DEFINITIONS**

SECTION 200. DEFINITION OF TERMS.

The following words and phrases shall be construed throughout this Ordinance to have the meaning indicated in this Article. The present tense includes the future; the singular number includes the plural, and the plural the singular, except where the quantity stated is a part of the regulation; the masculine gender includes the feminine and neuter; the word "used" includes the words "designed, arranged, or intended to be used"; the word "person" includes any individual, partnership, firm, association, corporation, or organization; the word "occupied" includes the words "designed, or intended to be occupied"; and the word "shall" is always mandatory. The word "Township" means Elk Township, Chester County, Pennsylvania; the term "Board of Supervisors" means the Board of Supervisors of Elk Township; the term "Zoning Hearing Board" shall mean the Zoning Hearing Board of Elk Township.

NOTE: All illustrations referenced within this Section are located at the end of this Article.

ACCESSORY AGRICULTURAL DWELLING – An accessory dwelling unit intended to be occupied by one or more of the following: 1) Owner of farm tract or family member of owner; 2) a tenant; or 3) employees and their immediate family members, who are engaged in the conduct of a principal agricultural related use carried out on the premises on which the dwelling unit is situated. Provided, however, that an accessory agricultural dwelling unit shall be limited to an accessory use to an agricultural related principal use being conducted on the parcel on which the dwelling is constructed.

ACCESSORY BUILDING - A building (such as a private garage, private swimming pool and appurtenant bathhouse, private toolhouse or children's playhouse or a noncommercial greenhouse) which is subordinate and accessory to a principal building on the same lot and which is used for purposes customarily incidental to those of the principal building.

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.

ACT 247 - The "Pennsylvania Municipalities Planning Code", Act 247 of 1968, as amended, 53 P.S. §§ 10101 et seq.

ADAPTIVE RE-USE - The development of a new activity for a building originally designed or used for another purpose.

AGRICULTURAL OPERATIONS – An enterprise that actively engages in the commercial production and preparation for market of crops, livestock, etc. The term includes activities that are consistent with practices and procedures that are normally engaged in by farmers or are consistent with technological development.

AGRICULTURAL RELATED BUSINESS – An establishment primarily engaged in the following activities: soil preservation services, crop services, landscaping, horticultural services, veterinary or other animal services, farm labor and management services, feed, seed and fertilizer

Article II ▪ Definitions

stores, sale and repair of farm machinery and farm vehicles, stables, aquaculture, or apiaries or similar uses.

AGRICULTURE – The cultivation of the soil including, but not limited to nurseries, commercial greenhouses, horticulture, forestry, and the keeping or raising of livestock, horses, and poultry.

AGRICULTURE, INTENSIVE – Agricultural uses involving the processing or production of agricultural products which are likely to emit frequent, reoccurring odors or noises considered obnoxious to a residential environment including, but not limited to, mushroom production, feedlots, mink farm, commercial piggeries, slaughter houses, and poultry houses.

AGRICULTURE, NON-INTENSIVE - The cultivation of soil and the raising and harvesting of products of the soil, including nurseries, horticulture, commercial greenhouses, forestry, and the raising of livestock, horses, and poultry.

AIRCRAFT - Any vehicle or device, except an unpowered hang-glider or parachute, used for manned ascent into or flight through the air, including helicopters.

AIRPORT - A place or facility where aircraft can land and take off, which may be equated with storage hangers, facilities for refueling and repair and various accommodations for passengers.

- A. **Public Use Airport.** Any airport open to the general public and not requiring prior permission of the owner and/or operator to land.
- B. **Private Use Airport.** Any airport that restricts usage to the owner and/or operator or to persons authorized by the owner and/or operator.
- C. **Personal Use Airport.** Any airport used exclusively by the owner and/or operator.

ALLEY – A minor right-of-way providing secondary vehicular access to the side or rear of two (2) or more properties.

ALTERATIONS - Any change in the supporting members of a building or structure, such as bearing walls, columns, beams or girders, joints or rafters, or enclosure walls which change the use of a building or structure or otherwise alters the area and bulk requirements of this Ordinance.

ANTENNA HEIGHT – The vertical distance measured from grade to the highest point of the support structure or antenna, whichever is higher. If the support structure is on a sloped grade, then the lowest grade shall be used in calculating the height.

ANTENNA SUPPORT STRUCTURE – Any pole, telescoping mast, tower, tripod, or any other structure which supports a device used in the transmitting or receiving of radio frequency energy.

APPLICATION FOR DEVELOPMENT – every application, whether preliminary or final, required to be filed and approved prior to the start of construction or development, including, but not limited to an application for a building permit, for the approval of a subdivision plat or plan, or for the approval of a development plan.

AQUIFER - A water bearing stratum of permeable rock, sand, or gravel.

Article II ▪ Definitions

APARTMENT BUILDING - A building designed for or occupied as a residence for two or more families living independently of one another.

APPLICANT - A landowner or developer, as herein defined, who has filed an application for development including his heirs, successors and assigns.

AREA and BULK REGULATIONS – Standards that control the height, density, intensity and location of structures, including, but not limited to setbacks or yard requirements.

BASE FLOOD - The flood which has been selected to serve as the basis upon which the floodplain management provisions of this Ordinance have been prepared; for the purposes of this Ordinance, the one hundred (100) year flood.

BASE FLOOD ELEVATION - The one hundred (100) year flood elevation. Within the approximated floodplain, the base flood elevation shall be established as a point on the boundary of the approximated floodplain which is nearest to the construction site in question.

BASEMENT – means any area of the building having its floor below ground level on all sides.

BLOCK - A unit of land bounded by streets or by a combination of streets and public land, waterways, or any other barrier to the continuity of development.

BOARD - Board of Supervisors of Elk Township, except that in Article XVII, the word "Board" shall mean the Zoning Hearing Board, as stated therein.

BUFFER AREA - A strip of land adjacent to the lot line that separates incompatible uses where a visible separation is to be established.

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.

BUILDING, ACCESSORY - A building subordinate to the principal building on a lot and used for purposes customarily incidental to those of the principal building.

BUILDING COVERAGE - The ratio obtained by dividing the ground floor area of all principal and accessory buildings on a lot (including covered porches, carports and breeze-ways, but excluding open patios) by the total area of the lot upon which the buildings are located. **Please refer to Figure 2-A.**

BUILDING HEIGHT - A building's vertical measurement from the mean level of the finished grade surrounding the building to the point midway between the highest and lowest points of the roof, excluding the chimney and/or mechanical equipment above the roof, such as stair or elevator penthouse and water towers.

BUILDING LINE - A line, parallel to the lot line, passing through the part of the building nearest to the particular lot line should be equal distant or farther from the lot line than the Building Setback Line.

BUILDING, PRINCIPAL - A building in which is conducted the principal use of the lot on which it is situated.

BUILDING SETBACK LINE - An established line within a property defining the minimum required distance between any building or structure to be erected and an adjacent right-of-way or street line. **Please refer to Figure 2-A.**

BULK - Bulk is a term used to describe the size of buildings or other structures and their relationships to each other, to open areas such as yards, and to lot lines, and therefore includes:

- A. The size, including height and floor areas of buildings and other structures.
- B. The relation of the number of dwelling units in a residential building to the area of the lot.
- C. All open areas in yard space relating to buildings or other structures.

BURDEN OF PROOF – The necessity or duty of affirmatively proving a fact or facts in dispute on an issue raised between the parties in a cause. The obligation of a party to establish by evidence a requisite degree of belief concerning a fact in the mind of the trier of fact [or the court].

CALIPER – The diameter of a tree trunk measured at a point six (6) inches above ground level.

CARTWAY - The surface of a street or alley available for vehicular traffic. **Please refer to Figure 2-A.**

CELL SITE - A tract or parcel of land that contains a commercial communication antenna, its support structure, accessory building(s), and parking, and may include other uses associated with, and ancillary to, commercial communication transmission.

CEMETERY – Land used or intended to be used for the burial of deceased persons or animals, including columbariums, mausoleums and mortuaries when operated in conjunction with the cemetery and within the boundaries of the cemetery.

CENTER FOR LOCAL GOVERNMENT SERVICES – The Governor’s Center for Local Government Services.

CERTIFICATE OF USE AND OCCUPANCY – A certificate issued and enforced by the Zoning Officer upon completion of the construction of a new building or upon a change or conversion of the structure or use of a building, which certifies compliance with all requirements and regulations as provided herein and with all other requirements herein incorporated by reference.

CLASS I, CLASS II, and CLASS III AGRICULTURAL SOILS - Soil classifications established by the United States Department of Agriculture as Agricultural Capability Units I, II and II.

CLASS I AGRICULTURAL SOILS:

CdA	Chester silt loam	0 to 3% slopes
Cn	Congaree silt loam	
GeA	Glenelg channery silt loam	0 to 3% slopes
GgA3	Glenelg silt loam	0 to 3% slopes
NaA	Neshaminy gravelly silt loam	0 to 3% slopes

6NeA	Neshaminy silt loam	0 to 3% slopes
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CLASS II AGRICULTURAL SOILS:

CdB2	Chester silt loam	3 to 8% slopes	moderately eroded
Ch	Chewacla silt loam		
CkB2	Chrome gravelly silty clay loam	3 to 8% slopes	moderately eroded
GeA2	Glenelg channery silt loam	0 to 3% slopes	moderately sloped
GeB	Glenelg channery silt loam	3 to 8% slopes	
GeB2	Glenelg channery silt loam	3 to 8% slopes	moderately sloped
GnA	Glenville silt loam	0 to 3% slopes	
GnB	Glenville silt loam	3 to 8% slopes	
MgA2	Manor loam	0 to 3% slopes	moderately eroded
MgB2	Manor loam	3 to 8% slopes	moderately eroded
MoB2	Montalto channery silt loam	3 to 8% slopes	moderately eroded
NaB2	Neshaminy gravelly silt loam	3 to 8% slopes	moderately eroded
6NeB2	Neshaminy silt loam	3 to 8% slopes	moderately eroded
UogB	Urban Land -- Glenville complex	0 to 8% slopes	
UsbB	Urban Land -- Manor complex	0 to 8% slopes	

CLASS III AGRICULTURAL SOILS:

AgB2	Aldino silt loam	0 to 3% slopes	moderately eroded
CoA	Conowingo silt loam	0 to 3% slopes	
CoB2	Conowingo silt loam	3 to 8% slopes	moderately eroded
GeC	Glenelg channery silt loam	8 to 15% slopes	
MgB3	Manor loam	3 to 8% slopes	severely eroded
MgC	Manor loam	8 to 15% slopes	
MgC2	Manor loam	8 to 15% slopes	moderately eroded
NaC2	Neshaminy gravelly silt loam	8 to 15% slopes	moderately eroded
6CwC	Conowingo silt loam	3 to 15% slopes	
GgB3	Glenelg silt loam	3 to 8% slopes	moderately sloped
GnC2	Glenville silt loam	8 to 15% slopes	moderately sloped

Source: Soil Survey Geographic Database for Chester County, Pennsylvania, United States Department of Agriculture, Natural Resources Conservation Service, 1997.

CLEAR SIGHT TRIANGLE - An area of unobstructed vision at street intersections defined as lines of sight between points at a given distance from the intersection of the street rights-of-way, cartways, or centerlines. **Please refer to Figure 2-B.**

CLUSTER DEVELOPMENT – An arrangement of residential structures that allows for grouping the structures by reducing lot area and yard requirements and incorporating the remaining area as open space. **Please refer to Figure 2-C.**

COMMERCIAL – A use of land, or improvements thereto, for the purpose or engaging in retail, wholesale, or service for profit.

COMMON OPEN SPACE - Common open space shall be defined as that area of land to be maintained for the use and enjoyment of residents and/or for the general public. It shall consist of landscaped or natural terrain, including lakes and streams, and may include such buildings as are

necessary to fulfill its permitted functions, but the area of common open space shall not include street rights-of-way or yard, or off-street parking areas required for residential or other uses permitted by this Ordinance.

COMMUNICATIONS ANTENNA – Any transmitting or receiving device including omnidirectional or whip antenna, directional or panel antenna, and microwave dish antennae, and including the accessory equipment cabinet necessary to operate the antenna, mounted on a tower, building or structure and used in communications that radiate or capture electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunications signals or other communication signals.

COMMUNICATIONS FACILITY – Any communications antenna or communications tower, as defined herein, which is operated by any agency or corporation, including a public utility regulated by the Public Utilities Commission (PUC) or any agency or franchise of Elk Township, or any police, fire, emergency medical or emergency management agency, but not to include satellite dish antennae, defined as parabolic dishes designed for “receive only” viewing of satellite programs for private viewing, or radio and television antenna defined as freestanding or building-mounted antennae located on residential property designed to enhance radio or television reception for the residents of the dwelling.

COMMUNICATIONS TOWER – Any structure, whether freestanding or attached to a building, designed to support one or more communications antennae, including, but not limited to self-supporting lattice towers, monopole towers, guyed towers, or one or more of the following mounts for antennae: rotatable platform, fixed platform, multi-point, side arm and pipe mounts for microwave dishes. The term includes radio and television towers, alternative tower structures, and the like. The term includes the structure and any support thereto.

COMPLETELY DRY SPACE - A space which will remain totally dry during flooding; the structure is designed and constructed to prevent the passage of water and water vapor.

COMPOST - Relatively stable decomposed organic material.

COMPOSTING - A controlled process of degrading organic matter by microorganisms.

COMPOSTING, AGRICULTURAL – The compost produced is intended primarily for use on the premises where it is prepared.

COMPOSTING, COMMERCIAL – A composting operation where the compost produced is not intended primarily for use on the premises where it is prepared.

COMPREHENSIVE PLAN - The document adopted as the Elk Township Comprehensive Plan (1987) by the Board of Supervisors.

CONDITIONAL USE - A use which may not be generally appropriate to a particular zoning district, but which may be suitable in certain locations within the district only when specific conditions prescribed for such use within this Ordinance are present. Conditional uses are granted or denied by the Board of Supervisors after a hearing to determine whether or not such conditions are present.

CONSISTENCY – An agreement or correspondence between matters being compared which denotes a reasonable, rational, and similar connection or relationship.

CONSTRAINTS – Existing designations on an area of land that shall be subtracted from the gross acreage in order to determine potential density, including but not limited to, existing road rights-of-way and utility rights-of-way or easements.

CONSTRUCTION – The erection, rebuilding, renovation, repair, extension, expansion, alteration, demolition, or relocation of a building or structure, including the placement of mobile homes.

CONVENIENCE STORE - A retail activity designed to serve a local market which involves, but is not limited to, any of the following uses: delicatessen, small food market, sale of automotive fuel, or video tape rental.

CONVENTIONAL DEVELOPMENT - Individual residential lots that encompass the entire development tract or area without retaining common open space associated with Cluster Development. **Please see Figure 2-C.**

CONVERSION - The division of a building into two (2) or three (3) dwelling units or an alteration of a building, structure or land by change of use, theretofore existing, to a new use which imposes other special provisions of a law governing building construction, equipment, exits, or zoning regulations.

CONVERSION, RESIDENTIAL – The division of a single family detached dwelling into two (2) or more dwelling units. For example the conversion of a single family home to two (2) or more apartments.

COUNTY COMPREHENSIVE PLAN – A land use and growth management plan adopted by the County Commissioners, which establishes broad goals and criteria for municipalities to use in preparation of their comprehensive plans and land use regulations.

COURT - An open area, unobstructed from the ground to the sky, that is bounded on two (2) or three (3) sides by the facing walls of a building or buildings on the same lot. **Please refer to Figure 4-A. on page 4-4.**

DAY CARE CENTER - Facility licensed by the Commonwealth of Pennsylvania which provides food service, shelter, supervision, educational and recreational needs of children whether or not for re-numeration.

DENSITY - The total land area divided by the total number of dwellings to be housed thereon, expressed in dwelling units (DU) per acre.

DEPARTMENT OF ENVIRONMENTAL PROTECTION (DEP) - Pennsylvania Department of Environmental Protection.

DEPARTMENT OF HEALTH – The Department of Health of the Commonwealth of Pennsylvania or of Chester County, or their respective representative having jurisdiction in the Township.

DESIGNATED GROWTH AREA – A region within a county or counties described in a municipal or multi-municipal plan that preferably includes and surrounds a city, borough, or village, and within which residential and mixed use development is permitted or planned for at

densities of one unit to the acre or more, commercial, industrial, and institutional uses are permitted or planned for and public infrastructure services are provided or planned.

DETACHED DWELLING - A detached dwelling is one which has yards on all four (4) sides of the building.

DETERMINATION – Any final action of the Zoning Officer, Township Engineer, Township Board of Supervisors, or Township Planning Commission constituting a final approval or disapproval with conditions of any application for a building permit or use permit or a decision relative to the provisions of this Ordinance, as specified within.

DEVELOPER - Any landowner, agent of such landowner, tenant with the permission of such landowner, or equitable owner, who makes or causes to be made, a subdivision of land or a land development.

DEVELOPMENT – Any man-made change to improved or unimproved real estate, including but not limited to the construction, reconstruction, renovation, repair, expansion, or alterations 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.

DEVELOPMENT OF REGIONAL SIGNIFICANCE AND IMPACT – Any land development that, because of its character, magnitude, or location will have substantial effect upon the health, safety, and welfare of citizens in more than one municipality.

DEVELOPMENT PLAN - The provisions for development, including a planned residential development, a plat of subdivision, all covenants relating to use, location and bulk of buildings and other structures, intensity of use or density of development, streets, ways and parking facilities, common open space and public facilities.

DIAMETER AT BREAST HEIGHT (DBH) – The diameter of a tree trunk measured at a point four (4) feet above ground level.

DISCONTINUANCE – The cessation of the use of property evident from continuous lack of maintenance or occupancy.

DISTRICT – A geographically definable area possessing a significant concentration, linkage, continuity of sites, buildings, structures, or objects for the purpose of establishing zoning regulations.

DRAINAGE – The movement of water from an area or property by stream or sheet flow, and removal of excess water from soil by downward flow.

DUMP - A lot or portion of a lot used for deposit and storage of refuse, including but not by way of limitation, garbage, ashes and rubbish. The definition of dump does not include a sanitary landfill as defined by this Ordinance and when operated in accordance with standards established by the Pennsylvania Department of Health or the Chester County Health Department.

DWELLING TYPES:

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- A. **MULTIPLE FAMILY DWELLING** - A building containing three (3) or more dwellings, each accommodating one (1) family, including, but not limited to the following configurations:
1. **APARTMENT DWELLING** - A building or group of buildings with common ownership on a lot with four (4) or more dwelling units used specifically for residential purposes and original constructed as such.
 2. **GARDEN APARTMENT** - A multiple family dwelling of up to three (3) stories in height designed for rental or condominium ownership of each housekeeping unit.
 3. **QUADRAPLEX** - A building containing four (4) dwellings, each sharing two (2) common party walls which separate the units vertically.
- B. **SINGLE FAMILY ATTACHED DWELLING (TOWNHOUSE)** - Three (3) or more single family attached dwelling unit with one (1) dwelling unit from ground to roof, two (2) points of independent outside access, at least two (2) other dwellings built in conjunction herewith and any portion of one (1) or two (2) unpierced party walls common with an adjoining dwelling, and, having yards on at least two (2) sides. **Please refer to Figure 2-D.**
- C. **MOBILE HOME** - A structure, transportable in one (1) or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term includes park trailers, travel trailers, recreational, and other similar vehicles placed on a site for more than one hundred eighty (180) consecutive days.
- D. **SINGLE FAMILY DETACHED DWELLING** - A dwelling unit which has yards on all sides. The term "Single Family Detached Dwelling" shall be deemed to include a "Modular Home" which is designed for transportation after fabrication in one (1) or more units and constructed so that it must be assembled on a permanent foundation and be connected to utilities. **Please refer to Figure 2-D.**
- E. **SINGLE FAMILY SEMI-DETACHED DWELLING (TWIN)** - Two (2) dwelling units each accommodating one (1) family which are attached side by side through use of a party wall with each dwelling unit having one (1) side yard. **Please refer to Figure 2-D.**
- F. **TWO FAMILY DETACHED DWELLING (DUPLEX)** - Two (2) dwelling units each accommodating one (1) family which are located one (1) over the other with the building having two (2) side yards. **Please refer to Figure 2-D.**

DWELLING UNIT - A room or rooms within a building connected together, constituting a separate independent housekeeping establishment for one (1) family only, for owner occupancy or for rental, lease or other occupancy, on a weekly or longer basis, physically separated from any other rooms or dwelling units, and containing independent lavatory, cooking and sleeping facilities.

EASEMENT - A right-of-way granted, but not necessarily dedicated, for a private, public or quasi-public purpose.

EDUCATIONAL USE - A use requiring certification, licensing, or review by the Pennsylvania Department of Education.

EFFECTIVE DATE OF THIS ORDINANCE – The date upon which this ordinance officially comes into effect, except that with respect to the subject matter of any amendment, said date shall mean the date upon which the particular amendment became or becomes effective.

EFFECTIVE SCREEN - Planting of deciduous and evergreen trees and shrubs, in accordance with the regulations set forth in Section 1301.E., shall be so arranged or placed as to divert attention from, or obstruct at least eighty-five (85%) percent of an otherwise clear view of an objectionable or incompatible use or activity during all seasons of the year. Any combination of evergreen and deciduous plant material, in accordance with the approved plant material list in Section 1301.E.7, may be used in order to achieve the minimum standards of eighty-five (85%) percent obstruction or screen. A wall or fence in combination with the aforementioned plantings may be used as an effective screen where required for parking and loading areas. The effective screen shall be in accordance with plans and specifications prepared by a registered landscape architect and shall be compatible with the landscaping on the lot and approved by the Zoning Officer. The effective screen shall be designed so that the arrangement of the plant material fits into the surrounding natural landscape. **Please refer to Figure 2-E.**

ENVIRONMENTALLY SENSITIVE AREAS – Those areas of land the disturbance of which would contribute significantly to the degradation of environmental conditions and amenities. Environmentally sensitive areas include, but are not limited to, those resources protected in Article XI, Natural Resources Overlay District of this Ordinance.

ESSENTIAL UTILITIES - Includes sewage, water, gas and electric lines and related appurtenances used to serve development within the Township, but not including cross country transmission lines or other utilities not required to serve the Township.

ESSENTIALLY DRY SPACE - A space which will remain dry during flooding, except for the passage of some water vapor or minor seepage; the structure is substantially impermeable to the passage of water.

FACING WALLS - The front or rear contiguous wall of a row of townhouse dwellings where access to the dwellings is provided. **Please refer to Figure 4-B on page 4-5.**

FAMILY - A family is defined as:

- A. A single person occupying a dwelling unit;
- B. Two (2) or more persons related by blood or marriage occupying a dwelling unit, including not more than one (1) boarder, roomer, or lodger; or
- C. Not more than four (4) unrelated persons occupying a dwelling unit, living together.

FEMA - Federal Emergency Management Agency.

FENCE - Any freestanding and uninhabited structure consisting of wood, glass, metal, plastic, wire, wire mesh, masonry or vegetation, singly, or in combination with other materials, two and one-half (2 1/2) feet or higher, erected to secure or divide one (1) property from another or part of

a property from a remaining part, to ensure privacy, to protect the property so defined, or to enclose all or part of the property.

FILL – Material, exclusive of structures, placed or deposited to form an embankment or to raise the surface elevation of the land. Clean fill shall be defined by standards set forth by the Pennsylvania Department of Environmental Protection.

FLOOD – A temporary inundation of normally dry land areas.

FLOOD FRINGE - That portion of the floodplain outside the floodway. **Please refer to Figure 2-F.**

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

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

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

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

FLOOR AREA OR GROSS FLOOR AREA - The total area of all floors as measured to the outside surfaces of exterior walls, or from the centerline of party walls separating two (2) buildings, but excluding crawl spaces, garages, carports, attics without floors, open porches, terraces, and cellars.

FLOOR SPACE – Floor areas of all floors as measured from the inside surfaces of the walls enclosing the part of a building occupied by a single occupant or shared by a distinct group of occupants, excluding therefrom common halls, stairwells, sanitary facilities and storage and other areas to which patrons do not have regular access.

FORESTRY – 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 a front lot line coinciding with a street line.

FUTURE GROWTH AREA – An area of a municipal or multi-municipal plan outside of and adjacent to a designated growth area where residential, commercial, industrial, and institutional uses and development are permitted or planned at varying densities and public infrastructure services may or may not be provided, but future development or densities is planned to accompany the orderly extension and provision of public infrastructure.

GARAGE, PARKING - An accessory to a principal building, either attached to it or separate, and used only for storage purposes.

GARAGE, PRIVATE - An accessory building or part of a principal building used for the storage of motor vehicles owned and used by the owner or tenant of the premises, and for the storage of not more than two (2) motor vehicles owned and used by persons other than the owner or tenant of the premises.

GARAGE, PUBLIC – A building other than a private garage, used exclusively for the storage or parking of motor vehicles.

GARAGE, STORAGE - A building, not a private or public garage, one (1) story in height, used solely for the storage of motor vehicles (other than trucks) but not for the service or repair thereof nor for the sale of fuel, accessories, or supplies.

GARAGE/YARD SALE – The temporary display and sale of goods and craft items on a residentially used property.

GASOLINE SERVICE STATION - An area of land, together with any structure thereon, used for the retail sale of motor fuel with lubricants and incidental services, such as lubrication and handwashing of motor vehicles, and the sale, installation or minor repair of tires, batteries, or other automobile accessories and the limited sale of convenience store items.

GENERAL CONSISTENCY, GENERALLY CONSISTENT – That which exhibits consistency.

GOLF COURSE – An organized, unlighted playing area containing a minimum of nine holes, constructed according to P.G.A. and U.S.G.A. standards. Neither a commercial driving range nor a commercial miniature golf area shall be considered a golf course for the purposes of this Ordinance.

GOVERNMENTAL USES - Municipal, County, State or Federal Government buildings or facilities designed and intended to be occupied by the government or designed and intended for public use sponsored by such government.

GRADE - The elevation of finished ground or paving which adjoins a building.

GRADING – The changing of the surface of the ground by excavation or fill or a combination thereof; the act of moving earth.

GREEN – A common or open area in the center of a town, village, or development designated for conservation, preservation, recreation, landscaping, or parkland.

GROUNDWATER RECHARGE – The replenishment of water, contained in interconnected pores located below the water table in an aquifer, from the infiltration of precipitation, streams, lakes, or other water sources.

GROUP HOME - A licensed community-based living arrangement functioning as a single household and providing rehabilitative services and which provides residential services to persons who, due to age, disability or handicap, are not able to live without professional care or supervision. Group homes do not include a disciplinary facility, or facility confining adjudicated delinquents or convicted criminals, parolees or supervised probationers under the custody of the

Article II ▪ Definitions

courts or county, state or federal correctional agencies, drug or alcohol rehabilitation facilities, nor shall the use be deemed to include facilities for the treatment of mentally ill or physically injured or disabled persons wherein psychiatric or medical care is administered beyond that incidental care normally provided in a single-family residence.

HELIPORT - An area of land or a structural surface which is designed, used, or intended to be used for the landing and take-off of helicopters, and which may include appurtenant areas which are designed to be used for helicopter support facilities such as maintenance, refueling, and hangers.

HISTORIC STRUCTURE – Any structure that is:

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

HOME OCCUPATION – An accessory use which is clearly incidental or secondary to the residential use of the dwelling unit and is an activity conducted for profit by persons residing on the premises. Home occupations are further divided into two (2) categories, major and minor, as defined below:

- 1. **Minor Home Occupation** - A home occupation which has little or no impact on the area in which it is located. A minor home occupation is specifically defined by the following characteristics:
 - a. The use is carried on only by the inhabitants of the dwelling;
 - b. The use does not involve customer or client visits to the dwelling and there are no direct sales of products on the site;
 - c. There is no exterior indication, including but not limited to signs, advertising, or other display, that a home occupation is located on the premises;
 - d. Commercial delivery and pick-up of goods and supplies is limited to no more than once a week, exclusive of normal postal and parcel service serving a residential area; and

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- e. The floor area devoted to the use does not exceed twenty-five (25%) percent of the floor area of the principal residential structure or five hundred (500) feet, whichever is less.
2. Major Home Occupation – A home occupation which requires additional review and regulation because of its potential impact on the area in which it is located. A major home occupation is specifically defined as a home occupation which does not meet one (1) or more of the criteria of a minor home occupation.

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.

HOUSEHOLD PETS - Domesticated animals normally considered to be kept in or in conjunction with a dwelling unit for the pleasures of the resident family, such as dogs, cats, small birds, gerbils and other similar pets normally sold by retail pet stores.

HYDRIC SOIL – A soil that is saturated, flooded, or ponded, long enough during the growing season to develop anaerobic conditions that favor the growth and regeneration of wetlands vegetation. Wetlands vegetation include those plant species that have adapted to saturated soils and periodic inundations occurring in wetlands.

IDENTIFIED FLOODPLAIN AREA - The floodplain area specifically identified in this Ordinance as being inundated by the one hundred (100) year flood.

IMPERVIOUS COVER - Land that is occupied by principal and accessory structures, streets driveways, parking areas and other similar surfaces that prohibit or slow the percolation and infiltration of water into the soil.

INSTITUTION - A building and grounds, a portion of which is used for the residence of more than three (3) unrelated persons who occupy the building for a common purpose, including, but not limited to, hospitals, churches, convents, school dormitories, nursing homes, reformatories, etc.

INVASIVE PLANT SPECIES – Plants that grow or reproduce aggressively, usually because they have no natural predators, which can so dominate an ecosystem that they kill off or drive out most other plant species. They can be native or exotic species. Examples include Multiflora Rose and Japanese Honeysuckle.

JUNK YARD - An area of land with or without buildings used for storage outside a complete enclosed building of used and discarded materials, including but not limited to, wastepaper, rags, metal building materials, home furnishings, machinery, vehicles or parts thereof, with or without the dismantling processing, salvage, sale or other use or disposition of the same. The deposit or storage on a lot of five (5) or more unlicensed, wrecked, or disabled vehicles, or the major part thereof, is a junk yard.

KENNEL – The use of land, building, or structure where eight (8) or more cats and/or dogs ten (10) weeks of age or older are kept for remuneration for boarding, grooming, breeding and/or selling purposes on a single lot or contiguous lots under single ownership or lease.

LAND DEVELOPMENT – Any of the following activities:

- (a) The improvement of one lot or two or more contiguous lots, tracts, or parcels of land for any purpose involving:
 - (1) A group of two or more residential or nonresidential buildings, whether proposed initially or cumulatively, or a single nonresidential building on a lot or lots regardless of the number of occupants or tenure; or
 - (2) The division or allocation of land or space, whether initially or cumulatively, between or among two or more existing or prospective occupants by means of or for the purpose of streets, common areas, leaseholds, condominiums, building groups, or other features.
- (b) A subdivision of land.

LANDOWNER - A 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 the land.

LANDSCAPE SCREEN – A completely planted visual barrier composed of evergreen plants and trees arranged to form both a low-level and a high-level screen.

LANDSCAPING - The planting of turf or other appropriate groundcover or the planting of deciduous and evergreen trees and shrubbery, including the maintenance thereof, for control of erosion, retention of precipitation, protection against the elements, and promotion of human comfort and welfare.

LIVESTOCK - Animals of any kind kept or raised for use or pleasure, especially meat and dairy cattle and draft animals.

LOADING SPACE – A space, accessible from a street, alley, or accessway, in a building or on a lot, for the temporary use of vehicles, while loading or unloading merchandise or materials.

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.

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 legally described property lines bounding the lot, exclusive of any Prohibitive Slopes, lands within the Floodplain Conservation District, Wetlands, rights-of-way, and easements for purposes including but not limited to access, utilities, stormwater facilities, water supply facilities, and sewage facilities. Unless otherwise specified, where the term “lot area” is used in this Ordinance it shall be construed to mean net lot area.

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LOT, CORNER - A corner lot is one bounded on at least two (2) sides by streets whenever the lines of such streets extended for an interior angle of one hundred thirty-five (135) degrees or less. Both yards adjacent to streets shall be considered front yards. The remaining two (2) yards shall be side yards.

LOT COVERAGE - The percentage of lot area covered by any and all impervious materials, such as buildings, paved parking areas, paved walks, terraces and similar surfaces which do not normally absorb rainfall.

LOT DEPTH - The distance along a straight line drawn from the midpoint of the front lot line, to the midpoint of the rear lot line.

LOT, FLAG - A lot which is surrounded on all sides by one (1) or more lots is generally the shape of a flag on a flag pole and has an access right-of-way to one (1) or more streets.

LOT LINE - A property boundary line of any lot held in single and separate ownership, except that in the case of any lot abutting a street, the lot line for such portion of the lot as abuts such street shall be deemed to be the same as the street line and shall not be the centerline of the street or any other line within the street lines even though such may be the property boundary line in a deed.

LOT LINE, FRONT - The front lot line is the line separating the lot from the street right-of-way.

LOT LINE, REAR - The rear lot line is any line, except the front lot line, which is parallel to, or within forty-five (45) degrees of being parallel to, and does not intersect any street line. **Please refer to Figure 2-A.**

LOT LINE, SIDE - A side lot line is any lot line which is not a front lot line or a rear lot line. **Please refer to Figure 2-A.**

LOT, REVERSE or DOUBLE FRONTAGE - Lots which are situated between two (2) public streets, but provide vehicular access solely from the street with the lesser highway functional classification.

LOT WIDTH - Lot width is the horizontal distance between side lot lines measured at right angles to the lot depth. **Please refer to Figure 2-A.**

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 ordinance.

MANURE – Animal dung used for fertilizing land.

MINERALS – Any aggregate or mass of mineral matter, whether or not coherent. The term includes, but 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, cola refuse, peat and crude oil, natural gas, and water.

MINIMUM BUILDING AREA – The area of a lot that has no development restrictions, The minimum buildable area shall not include the area of any required setbacks (except driveways which cross yards), buffer yards, natural features with one hundred (100%) percent protection as specified in Article XI, Natural Resource Overlay Districts, and the portion of other protected natural features that may not be developed or intruded upon.

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, soil, waste, vent, or similar piping, electric wiring or mechanical or mechanical other work affecting public health or general safety.

MIXED USE – The use of a building or a lot for two (2) or more principal uses.

MOBILE HOME - A transportable single-family building intended for permanent occupancy contained in one (1) unit, or in two (2) units, each having separate and individual sets of axles, designed to be joined into one (1) 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. The term “mobile home” shall not include a modular home.

MOBILE HOME LOT - A parcel of land in a mobile home park, improved with the necessary utility connections and other appurtenances necessary for the erection thereon of a single mobile home, which said lot is leased by the park owner to the occupants of the mobile home erected on the lot.

MOBILE HOME PARK - A parcel of land containing at least ten (10) acres, under single or separate ownership, which has been planned and improved for the placement of mobile homes for non-transient use, consisting of two (2) or more mobile home lots.

MODULAR HOME - A home built in a factory and then carried in sections to a building site where it is assembled.

MULTI FAMILY DEVELOPMENT – Apartment Dwellings, Garden Apartments and Quadrplexes.

MULTI-MUNICIPAL PLAN – A plan developed and adopted by any number of contiguous municipalities, including a joint municipal plan as authorized by the Pennsylvania Municipalities Planning Code.

MUNICIPAL USE – Any building, structure, facility, complex, area, or use, provided, constructed, or maintained by the municipal government of Elk Township, Chester County, Pennsylvania.

NATIVE PLANT SPECIES – A species of plant that currently or previously inhabited or grew in a specified location, and which was not introduced to that location as a result of human activity, either intentional or accidental. The term “native” species generally refers to a species whose

range was located within a large area like a continent or a nation. The term “indigenous” species is typically used to refer to a species whose original range extended into a smaller area like a state, county, or watershed.

NATURAL RESOURCES – For the purposes of this Ordinance, *natural resources* include ponds, lakes, floodplains, wetlands, hydric soils, precautionary and prohibitive slopes, riparian buffers, Class I, II, and III Agricultural Soils, and woodlands.

NEW CONSTRUCTION - Structures for which the start of construction commenced on or after January 24, 2005 and includes any subsequent improvements thereto.

NONCONFORMING LOT - A lot held in single and separate ownership which does not comply with the applicable dimensional regulations, including those related to site area, and lot width, in this Ordinance or amendments hereafter enacted where such lot was lawfully in existence prior to enactment of this Ordinance or amendments.

NONCONFORMING SIGN - Any sign lawfully existing at the time of the passage of this Ordinance that does not conform in use, location, height, or size to the regulations of Article XIV Signs.

NONCONFORMING STRUCTURE - A structure or part of a structure which does not comply with the applicable dimensional regulations, including those relating to density, impervious surfaces, building coverage, building height and setbacks in this Ordinance or amendment hereafter enacted, where such structure lawfully existed prior to the enactment of such ordinance or amendment. Such structures include, but are not limited, buildings, fences, and swimming pools.

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

NONCONFORMITY - A building or other structure, use or lot which by reason of design, size or use, does not comply with the applicable use or area and bulk requirements of this Ordinance or amendment thereto, heretofore or hereafter enacted where such non-conformity was lawfully in existence prior to the application of such ordinance or amendment to its location by reason of annexation.

NON-FARM OR NON-AGRICULTURAL LOT OR USE - A lot or parcel containing less than ten (10) acres and containing one (1) or more dwelling units, or a lot within the Agricultural District devoted to uses other than agricultural or residential uses.

NURSERY – Land or greenhouses used to raise flowers, shrubs, trees, and/or other plants for commercial purposes.

NURSING HOME or CONVALESCENT HOME – A building or series of buildings for the housing and care of persons in need of specialized care and attention, but who do not necessarily require hospital level of services.

OFFICE, ADMINISTRATIVE – An establishment primarily engaged in management and general administrative functions such as executive, personnel, finance, and sales activities.

OFFICE BUILDING – A building used primarily for conducting the affairs of a business, profession, service, industry, or government, or similar activity where no goods, merchandise, or materials are stored for sale, exchange, or delivery on the premises.

OFFICE, BUSINESS – An office where a particular kind of business is transacted or a service supplied and shall be limited to offices for management, consulting, record keeping, and clerical work of a commercial, industrial, mercantile, or personal service enterprise.

OFFICE PARK – A grouping of two (2) or more office buildings which are subdivided and developed according to a unified plan involving the layout of several lots, buildings, access streets, landscaping, and other improvements typically in a campus-like setting.

OFFICE, PROFESSIONAL – The office of a member of a recognized and lawful profession maintained for the conduct of that profession, including, but not limited to, dentists, doctors, chiropractors, attorneys, and accountants.

OFF-SITE SEWER SERVICE – The disposal of sewage by use of a sanitary sewer system served by a central sewage treatment plant approved by all governmental agencies having jurisdiction over such matters and either governmentally or privately owned or Public Utilities Commission (PUC) controlled.

OFF-SITE WATER SERVICE – A safe, adequate and healthful supply of water to more than one (1) user from a common source approved by all governmental agencies having jurisdiction over such matters and either governmentally or privately owned or PUC controlled.

ON-SITE SEWER SERVICE – The disposal of sewage by use of septic tanks or other safe and healthful means within the confines of the lot on which the use is located as approved by the Chester County Health Department.

ON-SITE WATER SERVICE – A safe, adequate and healthful supply of water to a single user from a private well as approved by the Chester County Health Department.

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

OPEN SPACE – Parcels of land within a residential subdivision, exclusive of streets and lots, generally preserved in a natural state or improved to provide common amenities for the residents of the subdivision. Open space is intended to preserve environmentally sensitive areas and protect resources, provide active and passive recreation facilities, establish greenways, provide wildlife habitats, encourage the retention of agricultural lands, and facilitate stormwater management functions and landscaped buffer yards.

OPEN SPACE MANAGEMENT PLAN - A long-range plan that outlines the way in which an area of open space will be preserved, managed, and how the associated activities will be funded.

PaDEP – See DEPARTMENT OF ENVIRONMENTAL PROTECTION (DEP).

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PARENT AGRICULTURAL TRACT - A tract of land containing at least ten (10) acres devoted to agricultural uses, together with a dwelling and accessory uses, located in the Agricultural Preservation District on the effective date of this Ordinance, and held in single and separate ownership.

PARENT TRACT - A contiguous tract of land containing at least ten (10) acres located in the Agricultural Preservation District on the effective date of this Ordinance, and held in single and separate ownership.

PARKING LOT – An off-street surfaced area designed solely for the parking of motor vehicles, including driveways, passageways and maneuvering space appurtenant thereto.

PARKING SPACE - A reasonably level space, having a surface slope not exceeding five (5%) percent, available for parking of one (1) motor vehicle, not less than ten (10) feet wide and having an area of not less than two hundred (200) square feet exclusive of passageways, driveways, or other means of circulation or access.

PARTY WALL – A common shared wall between two (2) separate structures, buildings, or dwelling units.

PENNSYLVANIA MUNICIPALITIES PLANNING CODE – See Act 247.

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.

PLANNING COMMISSION - The Planning Commission of Elk Township.

PLAT - The map or plan of a subdivision of land, whether preliminary or final.

PLAT RECORD - The final plat, or engineering layout of streets and lot easements, common open spaces and public grounds, which has been duly approved by all necessary officials and recorded in the Office of the Recorder of Deed of Chester County, West Chester, Pennsylvania.

POULTRY - Domesticated birds that serve as a source of eggs or meat that include among commercially important kinds, chickens, turkeys, ducks and geese and among kinds chiefly of local interest, guinea fowl, pea fowl, pigeons, pheasants and others.

PRESERVATION OR PROTECTION – Conservation and safeguards of natural and historic resources. Not to be interpreted to authorize the unreasonable restriction of forestry, mining or other lawful uses of natural resources.

PRIME AGRICULTURAL LAND – Land used for agricultural purposes that contains soils of the first, second, and third class as defined by the U.S. Department of Agriculture.

PRINCIPAL USE - The single dominant use or single main use on a lot.

PRIVATE – Any activity limited to members of an organization or to persons specifically invited where no advertisement or inducement has been made to the general public.

PUBLIC – Any use in which the general public is involved.

PUBLIC GROUNDS - includes:

- A. Parks, Playgrounds, trails, paths, and other recreational areas and other public areas.
- B. Sites for schools, sewage treatment, refuse disposal, and other publicly owned or operated facilities.
- C. Publicly owned or operated scenic and historic sites.

PUBLIC HEARING – A formal meeting held pursuant to public notice by the Board of Supervisors, the Planning Commission or the Zoning Hearing Board intended to inform and obtain public comment or to build an adjudicatory record prior to taking action in accordance with this Ordinance.

PUBLIC INFRASTRUCTURE AREA – A designated growth area and all or any portion of a future growth area described in a county or multi-municipal comprehensive plan where public infrastructure services will be provided and outside of which such public infrastructure services will not be required to be publicly financed.

PUBLIC INFRASTRUCTURE SERVICES – Services that are provided to areas with densities of one (1) or more units to the acre, which may include sanitary sewers and facilities for the collection and treatment of sewage, water lines and facilities for the pumping and treating of water, parks and open space, streets and sidewalks, public transportation and other services that may be appropriated within a growth area, but shall exclude fire protection and emergency medical services and other service required to protect the health and safety of residents.

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” or the Open Meetings Law (65 Pa.C.S. Ch. 7).

PUBLIC NOTICE - Notice published in any newspaper of general circulation in Elk Township, once each week for two (2) successive weeks, the first not more than thirty (30) days and the second not less than seven (7) days, prior to any public hearing required by this Ordinance; such notice shall give time and place, and the nature of the matter to be considered.

PUBLIC USE – Any building, structure, facility, complex, or area used by the general public or which provides a service to the public, whether constructed by a state, county, or municipal government agency, or any private individual, partnership, association, or corporation.

PUBLIC WATER - A private company which is subject to control of the Pennsylvania Department of Environmental Protection and the Public Utility Commission, through a network of pipes and for which a fee is charged.

RADIO TOWER - A structure erected for the sole purpose of holding antennae to be used as an accessory use specifically for communications via radio by an individual or company holding a valid active radio license issued by the Federal Communications Commission.

RECREATION, ACTIVE - Those recreational pursuits which require physical alteration to the area in which they are performed. Such areas are intensively used and include, but are not limited to, playgrounds, ball courts, and swimming pools.

RECREATION, INDOOR – The use of a building or part thereof for indoor sports such as bowling, tennis, racquetball, squash, indoor basketball, indoor swimming, and those sports activities usually conducted indoors, but excluding target shooting or any other activities that create loud noises or may be dangerous or disturbing to surrounding residents.

RECREATION, OUTDOOR – A recreational use and associated facilities designed and equipped for the conduct of sports and leisure time activities, including swimming, tennis, and other court games, baseball and other field sports, playground and other outdoor activities, but excluding amusement parks, go-cart tracks, shooting ranges and other activities which generate noise objectionable to a residential environment.

RECREATION, PASSIVE - Recreational pursuits which can be carried out with little alteration or disruption of the area in which they are performed. Such uses include, but are not limited to, hiking, biking and picnicking.

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

REFORESTATION – The restocking of an area with forest trees, including natural regeneration, as well as tree planting.

REGIONAL PLANNING AGENCY – A planning agency that is comprised of representatives from more than one county. Responsibilities shall include providing assistance to counties and municipalities, mediating conflicts across county lines, and reviewing county comprehensive plans for consistency between counties.

REGULATORY FLOOD ELEVATION - The one-hundred (100) year flood elevation plus a freeboard safety factor of one and one-half (1-1/2) feet.

REPETITIVE LOSS – Flood related damages sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on average, equals or exceeds 25 percent of the market value of the structure before the damages occurred.

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 recommendatory and advisory only and shall not be binding upon the recipient, board, officer, body or agency, nor 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 proceeding upon request, and copies thereof shall be provided at cost of production.

RESIDENT FARMER - A farmer that lives on and farms the same parcel of land or a contiguous set of parcels.

RETAIL TRADE - Establishments engaged in selling goods or merchandise to the general public for personal or household consumption and vending service incidental to the sale of such goods, such as, but not limited to, hardware stores, pharmacy, magazine/book store, florist or clothing store.

RETIREMENT COMMUNITY – A development of individual or multiple dwelling units which is designed for adults and which meets the definition of “housing for older persons” as set forth in the Fair Housing Amendments Act of 1988, as amended, 42 U.S.C. §§ 3601 et seq.

RIGHT-OF-WAY (ROW) - Land reserved for an easement, street, crosswalk or other public purpose. **Please refer to Figure 2-A.**

RIGHT-OF-WAY, FUTURE – The right-of-way deemed appropriate to provide adequate width for future street improvements.

RIGHT-OF-WAY, LEGAL – The existing right-of-way of dedicated streets as established by the Commonwealth of Pennsylvania or other appropriate governing authority.

RIPARIAN BUFFER - An area of trees and other vegetation adjacent to a watercourse that forms a transition area between the aquatic and terrestrial environment. The riparian buffer is designed to intercept runoff from upland sources for the purpose of mitigating the effects of nutrients, sediment, organic matter, pesticides or other pollutants prior to entry into surface waters. For the purposes of this Ordinance, the riparian buffer shall be divided into two Zones:

- A. ZONE ONE: INNER RIPARIAN BUFFER - This zone begins at each edge of an identified watercourse and occupies a margin of land with a minimum width of twenty-five (25) feet measured horizontally on a line perpendicular to the edge of the water at bankfull flow. Where very steep slopes (+25%) are located within twenty-five (25) feet of a watercourse, Zone One shall extend the entire distance of this sloped area.
- B. ZONE TWO: OUTER RIPARIAN BUFFER - This zone begins at the outer edge of Zone One and occupies a minimum width of fifty (50) feet in addition to Zone One. In cases where Zone One extends beyond twenty-five (25) feet due to the presence of very steep slopes, the width of Zone Two shall be adjusted so that the total riparian buffer width equals a seventy-five (75) foot maximum. **Please refer to Figure 2-G.**

ROAD FUNCTIONAL CLASSIFICATION – A designation given a road in accordance with its function as a carrier of traffic and from which specific setback distances as provided in this Ordinance apply. Classifications for new roads within the Township shall be determined by the Board of Supervisors after recommendation by the Planning Commission. For the purpose of this Ordinance, the following four (4) classifications shall apply:

- A. ARTERIAL – A road with two (2) or more lanes, both limited access and non-limited access, which provides for large volumes or traffic between major population centers.
- B. COLLECTOR - A road whose function is to provide for the movement of traffic to community facilities and carry larger volumes of traffic to the arterial road system.

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- C. LOCAL – A road whose function is to provide for local traffic movement and direct access to abutting properties.
 - D. MARGINAL ACCESS – Local or minor streets. Parallel and adjacent to abutting properties with controlled access points onto the collector or arterial street.

RURAL RESOURCE AREA – An area described in a municipal or multi-municipal plan within which rural resources including, but not limited to, agriculture, timbering, mining, quarrying, and other extractive industries, fore and game lands and recreation and tourism are encouraged and enhanced, development that is compatible or supportive of such uses is permitted, and public infrastructure services are not provided except in villages.

SANITARY LANDFILL - A lot or portion of a lot used for deposit and storage of refuse and in which all exposed refuse is covered daily with a minimum of six (6) inches of earth. A sanitary landfill shall be operated in accordance with standards established by, and shall be subject to, inspection by the Pennsylvania Department of Health and Pennsylvania Department of Environmental Protection, or it shall be considered a dump.

SECONDARY FARM FAMILY BUSINESS – An agricultural accessory use, such as repair of agricultural equipment, butcher shop, or processing of local agricultural products, which provide a secondary source of income to the primary agricultural use.

SETBACK LINE – A line established by this Ordinance parallel to and at a prescribed distance from a public or private street, which determines an area within which no structure may be erected.

SEWAGE – Any substance that contains any of the waste products or excrementitious matter or other discharge for the bodies of human beings or animals and laundry, bathroom, and kitchen waste water.

SEWAGE DISPOSAL:

- A. INDIVIDUAL - The disposal of sewage from one (1) dwelling unit by use of septic tanks or other safe and healthful means, approved by the Chester County Health Department. Such system shall be totally within the confines of the lot on which the use is located, or shall be located within an easement designated for such purpose on another lot.
- B. CENTRAL COMMUNITY COLLECTION AND TREATMENT - A sanitary sewage system which carries sewage from individual dischargers by a system of pipes to one (1) or more common treatment and disposal facilities, either on-site or off-site, and approved by the Pennsylvania Department of Environmental Protection.
- C. PUBLIC SEWAGE SYSTEM - An off-site system for treatment and disposal of sewage in which sewage is conveyed by interceptor to the treatment facility and disposed of through means approved by the Pennsylvania Department of Environmental Protection.

SHOPPING CENTER - The multiple use of a single property for the retail sale of such things as dry goods; variety and general merchandise; clothing; food; flowers; drugs; household supplies or furnishings; sale or repair of jewelry, watches and clocks; optical goods; or musical, professional or scientific instruments; the provision of personal services, such as barbershops; banks;

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hairdressers; laundry or laundromats, and cleaning and pressing shops; and for such purposes as theaters or bowling alleys.

SIGHT DISTANCE – The maximum extent of unobstructed vision (in a vertical or horizontal plan) along a street from a vehicle located at any given point on the street.

SIGN - A sign is any letter, word, model, device, symbol, or representation intended as an announcement, direction, or advertisement and may be (1) either free-standing or attached to another structure, or (2) painted on the exterior wall of a building or other structure.

SIGN, ACCESSORY USE - Signs which identify or advertise home occupations.

SIGN, AREA OR SIZE - The entire area within a single continuous perimeter enclosing the extreme limits of such sign, together with all moldings, battens, capping, nailing strips, laticing and platforms which are attached and are part of the sign proper and/or forming an integral part of the display. Signs which are composed of letters, words or representations only and which do not form a square or rectangular pattern shall be considered to include in sign area a square or rectangle as drawn at the outer limits of the letters, words or representations. In computing the area of a double-face sign, the total area shall include both sides.

SIGN, BUSINESS - A sign directing attention to a business, commodity, or service conducted, sold or offered upon the same premises as those upon which the sign is maintained.

SIGN, DEVELOPMENT - A sign indicating that the premises is in the process of being subdivided and developed for the construction of dwellings or other buildings.

SIGN HEIGHT – The distance from the existing ground elevation at the base of, or immediately below the sign, to the highest point of the sign structure.

SIGN TYPES:

- A. Sign, Directional - A sign conveying instructions with respect to the premises on which it is maintained, such as the entrance and exit of a parking area, a warning sign, a danger sign and similar information signs.
- B. Sign, Free-standing - A detached sign which shall include any sign, uprights or braces placed upon or in the ground and not attached to any building.
- C. Sign, Illuminated - A non-flashing or non-twinkling sign which has characters, letters, figures, designs or outlines illuminated by direct or indirect electric lighting or luminous tubes as part of the sign.
- D. Sign, Official Traffic - Signs erected by the Pennsylvania Department of Transportation or the Township of Elk which are designed to regulate traffic, describe road conditions, or supply directions.
- E. Sign, Off-Site Directional - Non-illuminated signs used to direct persons to civic or service clubs, churches, schools, non-profit organizations or other public or quasi-public sites or facilities.

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- F. Sign, Outdoor Advertising Billboard - A sign which directs attention to a business, commodity, service or entertainment not conducted, sold or offered upon the premises where such sign is located.
 - G. Sign, Portable - Signs that can either be attached or mounted on wheels or transported by flat bed trailer.
 - H. Sign, Projecting - A sign affixed to a wall or other vertical building surface in such a manner that its leading edge extends more than six (6) inches beyond the surface of such wall or building.
 - I. Sign, Real Estate - A temporary sign indicating the sale, rental or lease of the premises on which the sign is located.
 - J. Sign, Temporary - A sign notifying or advertising a special event, such as festivals, concerts or exhibits, being displayed for not more than thirty (30) days in duration.
 - K. Sign, Wall - Any sign erected against the wall of any building or displayed in windows or doors, or displayed with the exposed face thereof in a plan parallel to the face of said wall, window or door and which sign is mounted at a distance measured perpendicular to said wall not greater than twelve (12) inches.

SINGLE AND SEPARATE OWNERSHIP - The ownership of a lot by one (1) or more persons which ownership is separate and distinct from that of any adjoining property.

SITE RESTORATION – Measures taken following the completion of land disturbance activities which will stabilize the land surface and minimize possible erosion or sedimentation.

SLOPES, PRECAUTIONARY – Those areas of land where the grade is fifteen (15%) to twenty-five (25%) percent.

SLOPES, PROHIBITIVE - Those areas of land where the grade is twenty-five (25%) percent or greater.

SLUDGE – Sewage treatment plant sludge of other commercial waste materials which any person seeks to spread or place on the land, other than commercially prepared and sold agricultural fertilizers and agriculturally produced animal wastes.

SMALL STREAM – Any stream lying outside of the FEMA Mapped Flood Hazard District having a drainage shed in excess of one-half (1/2) square mile.

SOLID WASTE - All refuse including garbage and trash, and all material which is putrescible and originating from the preparation, cooking and consumption of food and market produce.

SPECIAL PERMIT - A special approval which is required for hospitals, nursing homes, jails, and new manufactured home park or subdivision and substantial improvements to such existing manufactured home park or subdivision when such development is located partly or entirely within a designated flood plain.

SPECIFIC PLAN – A detailed plan for nonresidential development of an area covered by a municipal or multi-municipal comprehensive plan, which when approved and adopted by the participating municipalities through ordinances and agreements supersedes all other applications.

STABLE:

- A. **PRIVATE** – An accessory building in which horses are kept for private use and not for hire, remuneration or sale.
- B. **PUBLIC** – A building in which any horses are kept for remuneration, hire or sale.

STATE LAND USE and GROWTH MANAGEMENT REPORT – Growth management report prepared by the Center for Local Government Services. This report shall contain information, data, and conclusions regarding growth and development patterns, and shall offer recommendations to commonwealth agencies for coordination of executive action, regulations, and programs.

STORAGE - The keeping of used or new products, merchandise, materials, equipment or vehicles for a continuous period greater than eight (8) hours. Excluded from this definition are the following:

- A. Equipment, vehicles and materials which are used in connection with a construction project during the period of construction.
- B. The unloading or loading of vehicles which are parked against a building so that all activity occurs within the building.

STORAGE, OUTDOOR – The keeping of goods or materials for present or future use in an area unprotected from the elements.

STORY - That portion of a building located between the surface of any floor and the ceiling or roof next above it.

STREET - A way, intended for general public use, to provide means of approach for vehicles and pedestrians. The word "street" includes the words "road," "highway," "thoroughfare," and "way".

STREET, CENTERLINE OF - A street centerline is the mid-point of the cartway or right-of-way. **Please refer to Figure 2-A.**

STREET LINE - A street line is the right-of-way line of a street. **Please refer to Figure 2-A.**

STREET, PRIVATE – A thoroughfare serving not less than two (2) or more than three (3) lots held in single and separate ownership and not deeded or dedicated to the Township.

STREET, PUBLIC – A public thoroughfare which has been dedicated and deeded to the Township and which affords the principal means of access to the abutting property.

STREET, SINGLE ACCESS – A street which has access to an existing public road and circulation system only at one (1) point. A single access street includes cul-de-sacs, loop roads, and dead end streets.

STRUCTURAL UNIT - One or more buildings enclosed by continuous exterior walls and a continuous roof.

STRUCTURE – Anything constructed or erected on the ground or attached to the ground including, but not limited to, buildings, sheds, manufactured homes, and other similar items. This term includes any man-made object having an ascertainable stationary location on or in land or water whether or not affixed to land.

STRUCTURE, TEMPORARY – A structure without foundation or footings which is removed when the designated time period, activity, or use for which the temporary structure was erected has ceased.

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

SUBDIVISION AND LAND DEVELOPMENT ORDINANCE – The Subdivision and Land Development Ordinance of Elk Township, Chester County, as adopted and amended.

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

SUBSTANTIAL IMPROVEMENT - Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds fifty (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" when repetitive loss language is used) regardless of the actual repair work performed. This term does not, however include either:

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

SUPPLEMENTAL DWELLING UNIT – A smaller secondary dwelling unit within an existing single family detached dwelling or accessory building on the same lot as the principal dwelling where the principal use of the lot is residential and the appearance of the principal dwelling remains that of a single detached dwelling to the greatest extent possible.

SURFACE RUN-OFF - That part of the precipitation that passes over the surface of the soil.

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SWIMMING POOLS - An enclosure, designed to be filled with water, permanently constructed or portable, with sides having a depth of more than eighteen (18) inches below the level of the immediate surrounding grade, or an above surface pool having a depth of more than thirty (30) inches, designed, used, and maintained for swimming and recreation.

- A. PRIVATE - Any reasonably permanent pool or open tank not located within a completely enclosed building and containing or normally capable of containing water to a depth at any point greater than one and one-half (1 ½) feet. Ponds and/or lakes are not included, provided that swimming was not the primary purpose for their construction.
- B. PUBLIC - Any open or enclosed place open to the public for amateur and professional swimming or recreational bathing, whether or not a fee is charged for admission or for the use thereof.

TENANT HOUSE – A single-family dwelling occupied by a tenant through a lease arrangement with the property owner with the owner’s consent.

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

TOWNSHIP - The Township of Elk.

TOWNSHIP ENGINEER - A professional engineer licensed as such in the Commonwealth of Pennsylvania, duly appointed as the engineer for Elk Township.

TRACT - One or more lots assembled for the purpose of development.

TRADITIONAL NEIGHBORHOOD DEVELOPMENT – An area of land developed for a compatible mixture of residential units for various income levels and nonresidential commercial and workplace uses, including some structures that provide for a mix of uses within the same building. Residences, shops, offices, workplaces, public buildings and parks are interwoven within the neighborhood so that all are within relatively close proximity to each other. Traditional neighborhood development is relatively compact, limited in size, and oriented toward pedestrian activity. It has an identifiable center and a discernible edge. The center of the neighborhood is in the form of a public park, commons, plaza, square or prominent intersection of two or more major streets. Generally, there is a hierarchy of streets laid out in a rectilinear or grid pattern of interconnecting streets and blocks that provides multiple routes from origins to destinations and are appropriately designed to serve the needs of pedestrians and vehicles equally.

TRAIL – A right-of-way containing a marked or beaten path, whether paved or unpaved, for pedestrians, equestrian, or bicycle use.

TREE DRIPLINE - The line marking the outer edges of the branches of the tree. **Please refer to Figure 2-H.**

TREE PROTECTION ZONE - An area that is radial to the trunk of a tree in which no construction activity shall occur. The tree protection zone shall be fifteen (15) feet from the trunk of the tree to be retained, or the distance from the trunk of the tree to two (2) feet beyond the dripline, whichever is greater. Where there is a group of trees or woodlands, the tree protection

zone shall be the aggregate of the protection zones for the individual trees. **Please refer to Figure 2-H.**

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 Commonwealth floodplain construction. For coordination purposes, references to the above are made specifically to various sections of the IRC and the IBC.

USE - Any purpose for which a building or other structure or tract of land may be designed, arranged, intended, maintained or occupied, or any activity, or occupation carried on, or intended to be carried on, in a building or other structure or a tract of land.

USE, BY-RIGHT – A use which is permitted in a zoning district without the need for a special exception, variance, or conditional use permit.

USE, CONDITIONAL – A use which is generally not appropriate to a particular zoning district as a whole, but which may be suitable in certain localities within the district only when specific conditions and factors prescribed for such cases within this Ordinance are present. Conditional uses are allowed or denied by the Board of Supervisors after a public hearing and review and comments from the Planning Commission.

USE, EDUCATIONAL – Use of land or building(s) for the establishment and maintenance of a public or private college, secondary, or elementary school, or other educational institution for the primary purpose of instruction and learning.

USE, SPECIAL EXCEPTION – A use which is not permitted as a right, but which, when deemed suitable, with or without the imposition of conditions or restrictions under applicable standards, may be allowed by the Zoning Hearing Board after public hearing.

VARIANCE - Permission, approval or authorization granted by the Zoning Hearing Board in accordance with Section 1706.C., herein, constituting a modification of, or deviation from, the exact provisions of this Ordinance as applied to a specific piece of property.

VILLAGE – An unincorporated settlement that is part of a township where residential and mixed use densities of one (1) unit to the acre or more exist or are permitted and commercial, industrial, or institutional uses exist or are permitted.

WATERCOURSE – A stream, creek, run, or other body of running water with a defined bed and banks in which water flows in a definite direction or course, either continuously or intermittently, as depicted by the U.S.G.S. Quadrangle Maps (most current edition).

WATERS OF THE COMMONWEALTH – Any and all rivers of the Commonwealth. Any and all rivers, streams, creeks, lakes, rivulets, dammed water, ponds, springs, and all other bodies of surface and underground water, or parts thereof, whether natural or artificial, within or in the boundaries of the Commonwealth of Pennsylvania.

WATER SUPPLY:

- A. INDIVIDUAL - A safe and healthful supply of water, to a single user from a private well located on the lot in which the use is located.
- B. COMMUNITY - A system for supplying water from a common source or sources to all dwellings and other buildings within a development. The water supply source may be located on-site and/or off-site and may be publicly or privately owned.
- C. PUBLIC - A system for supplying water in sufficient quantities to all dwellings and other buildings within a development, which is administered by a municipality, municipal authority or public utility as defined and regulated by the Pennsylvania Public Utility Commission.

WATER SURVEY – An inventory of the source, quantity, yield and use of groundwater and surface-water resources within the Township.

WATER TABLE – The upper surface of saturation, except where that surface is formed by an impermeable body.

WETLAND – Those areas that are inundated 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. More specifically, any area meeting the official wetland definition of the U.S. Army Corps of Engineers and the Pennsylvania Department of Environmental Protection. Where a discrepancy exists between the wetland definitions of the U.S. Army Corps of Engineers and the Pennsylvania Department of Environmental Protection, the more restrictive definition shall apply.

WETLANDS MARGIN – An examined area measured from the outer limit of the wetland to the outer limit of the hydric soils contiguous to the wetland or one hundred (100) feet, whichever is greater.

WOODLAND – A plant community predominantly of healthy trees and other woody vegetation, well stocked and growing more or less closely together. Specifically, woodlands consist of one-quarter (1/4) acre or more of continuous wooded land where the largest trees measure at least six (6) inches diameter at breast height. The woodland shall be measured from the drip line of the outer trees. Woodlands are also a grove of trees forming one canopy where ten (10) or more trees measure at least six (6) inches at diameter at breast height.

YARD - A yard is that portion of a lot which is unoccupied and open to the sky and extends from the lot line to the building.

YARD, FRONT - A front yard is a yard extending along the full length of the front lot line to the nearest point of any building on the lot.

YARD, REAR - A yard extending the full width of the lot along the rear lot line and extending in depth from the rear lot line-to the nearest point of any building/structure on the lot. **Please refer to Figure 2-A.**

YARD, SIDE - A side yard is a yard extending the full length of the lot along a side lot line and extending in width from such side lot line to the nearest point of any building on the lot. **Please refer to Figure 2-A.**

ZONING – The designation of specified districts within Elk Township, Chester County, reserving them for certain uses, together with limitations on lot size, heights of structures and other stipulated requirements.

ZONING, BASE – The basic system of zoning, which, under the Township Zoning Ordinance as amended, divides all land in the Township into separate, distinct zoning district classes, and sets limits and requirements for land use in each of these base zoning districts.

ZONING HEARING BOARD - The Zoning Hearing Board of Elk Township.

ZONING MAP – The Official Zoning Map Elk Township, Chester County, as adopted and amended.

ZONING OFFICER - The administrative officer charged with the duty of enforcing the provisions of this Ordinance.

ZONING PERMIT - A permit issued indicating that a proposed use, building or structure is in accordance with the provisions of this Ordinance, which authorizes an applicant to proceed with said use, building or structure.

Undefined terms. In cases where definitions do not appear above and disagreement arises as to meaning, the definition which will govern shall be that derived from the American Heritage Dictionary of the English Language.

**Figure 2-A
Lot Dimensions**

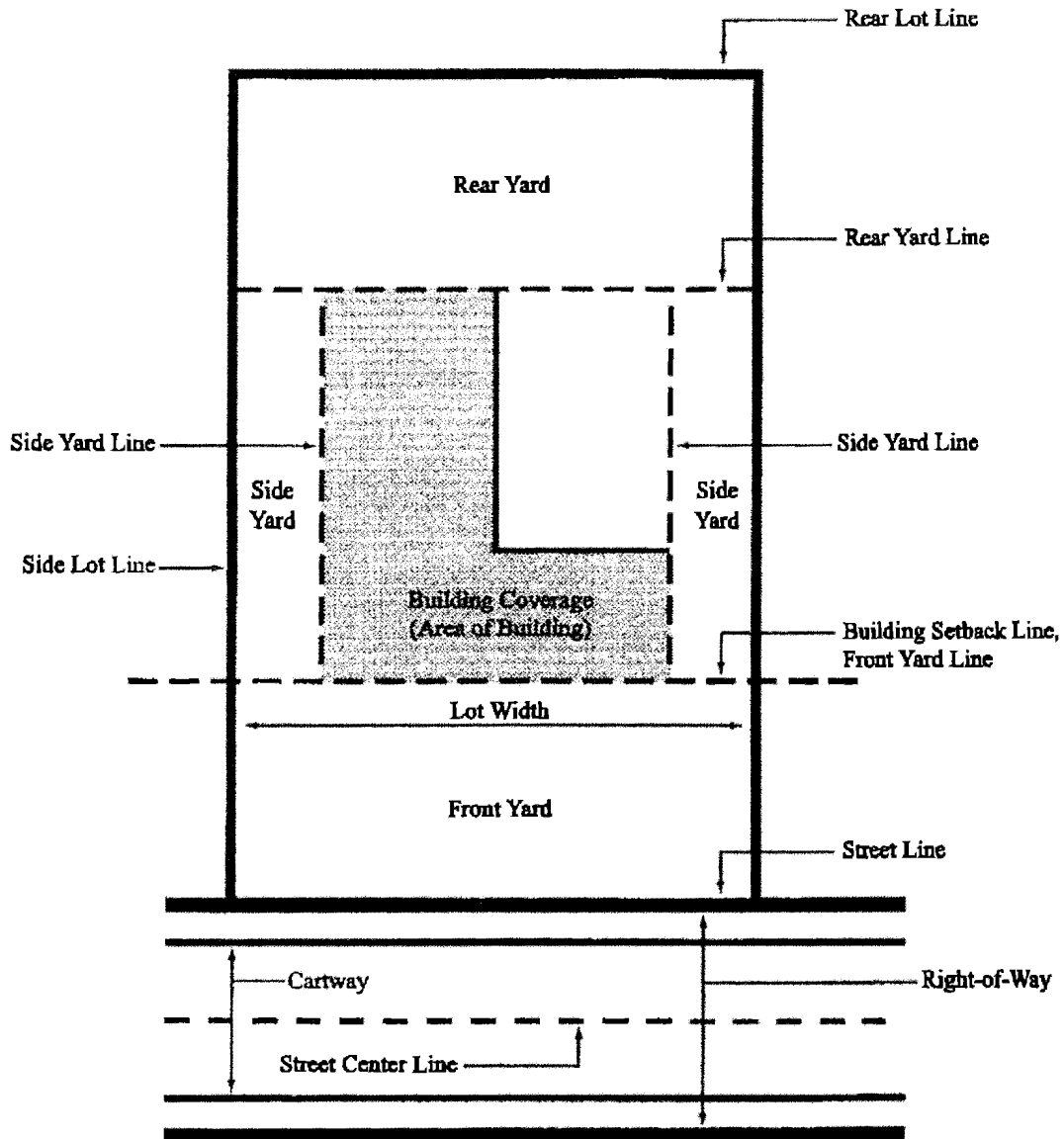


Figure 2-B
Clear Sight Triangle

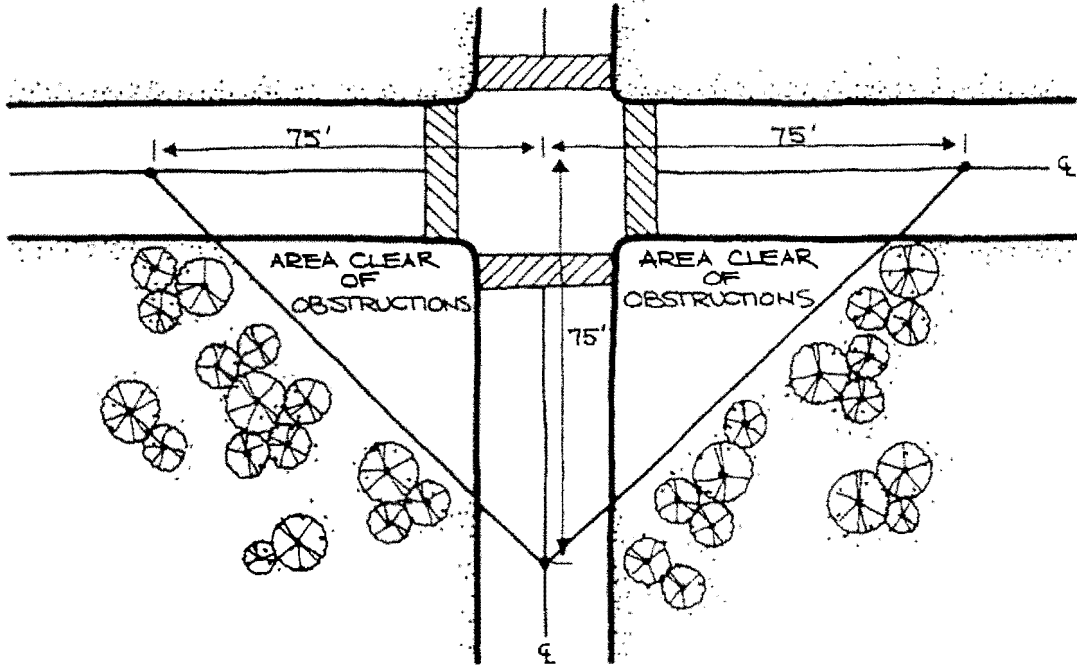
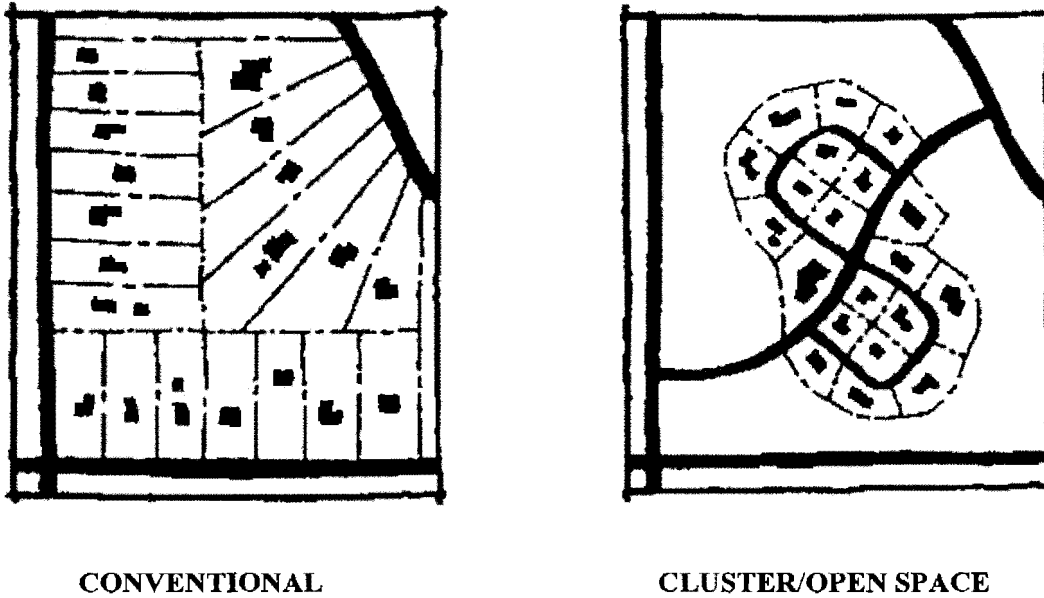
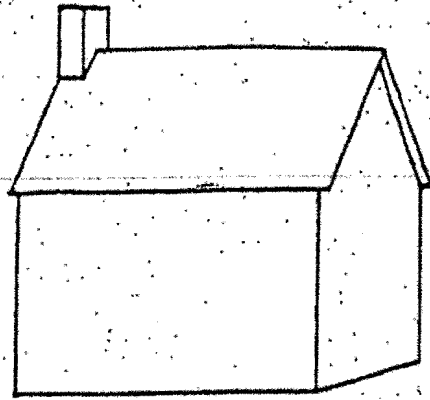


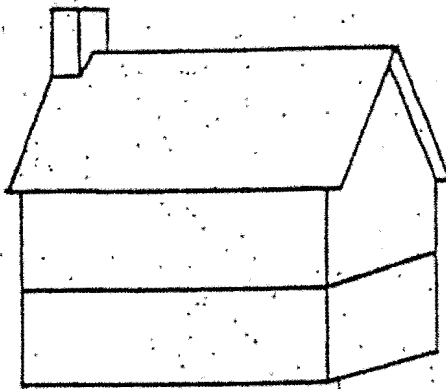
Figure 2-C
Conventional vs. Cluster Development



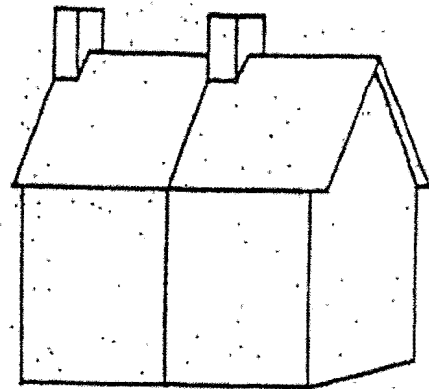
**Figure 2-D
Dwelling Types**



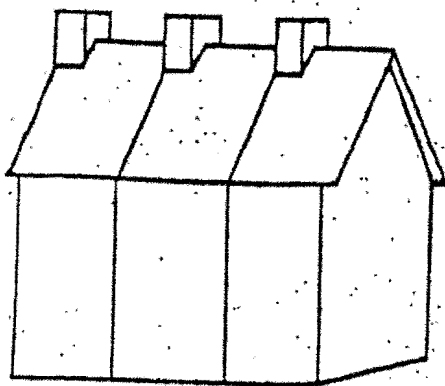
SINGLE-FAMILY



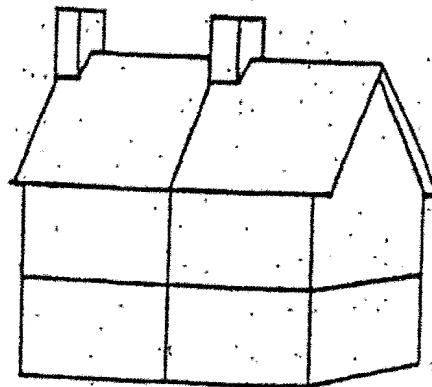
DUPLEX



TWIN



TOWNHOUSE



MULTI-FAMILY

Figure 2-E
Effective Screen

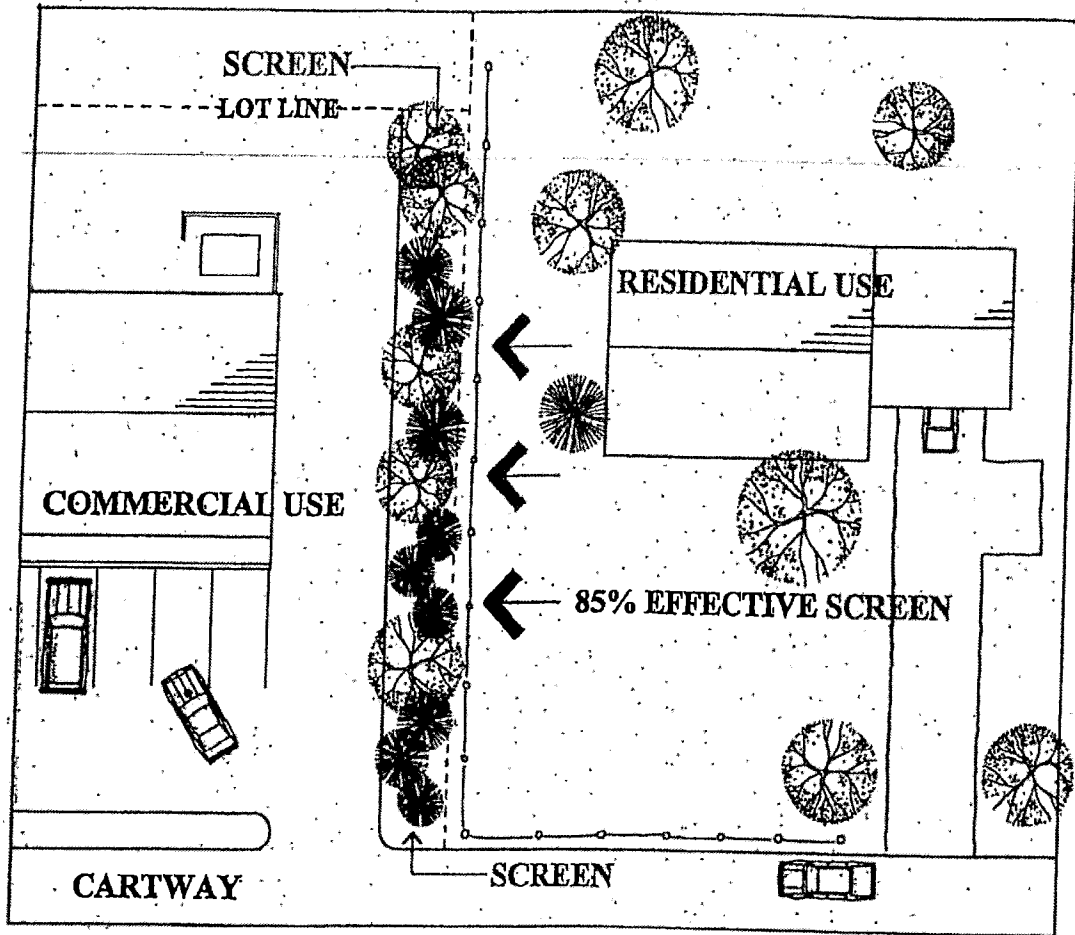


Figure 2-F
Floodplain

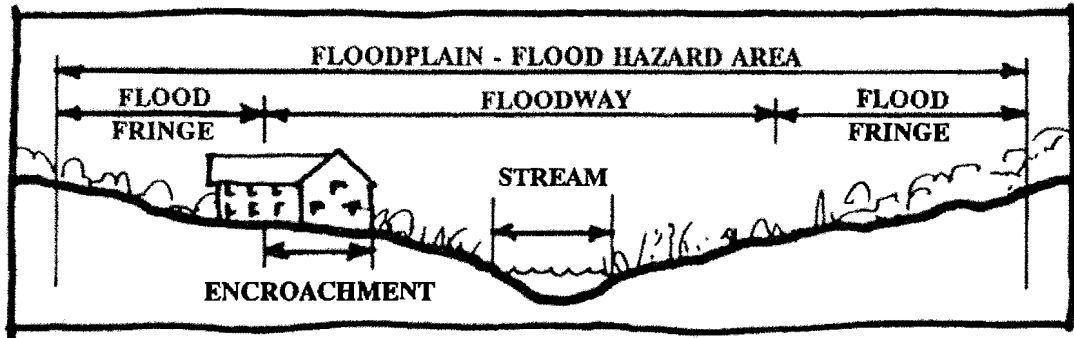


Figure 2-G
Riparian Buffer

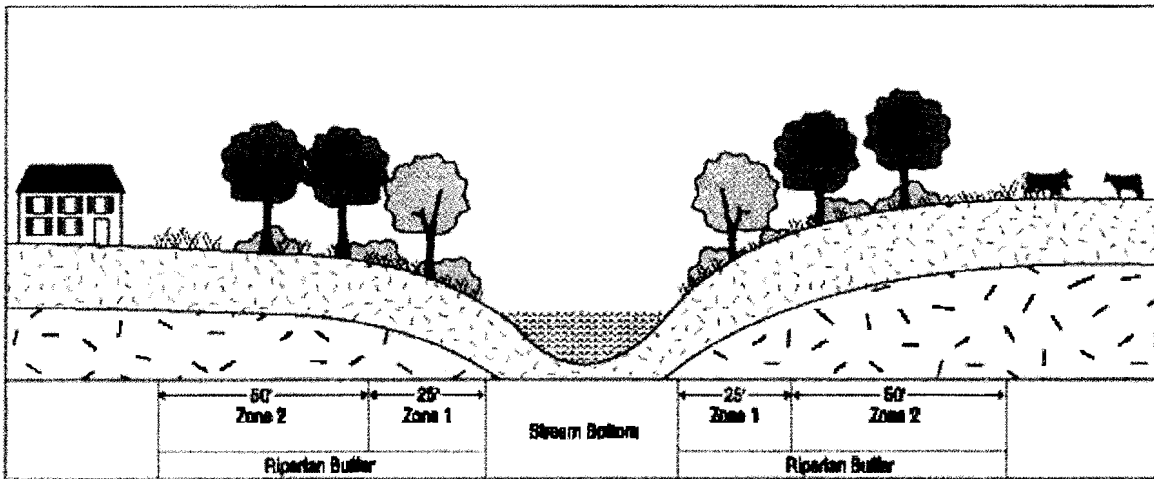
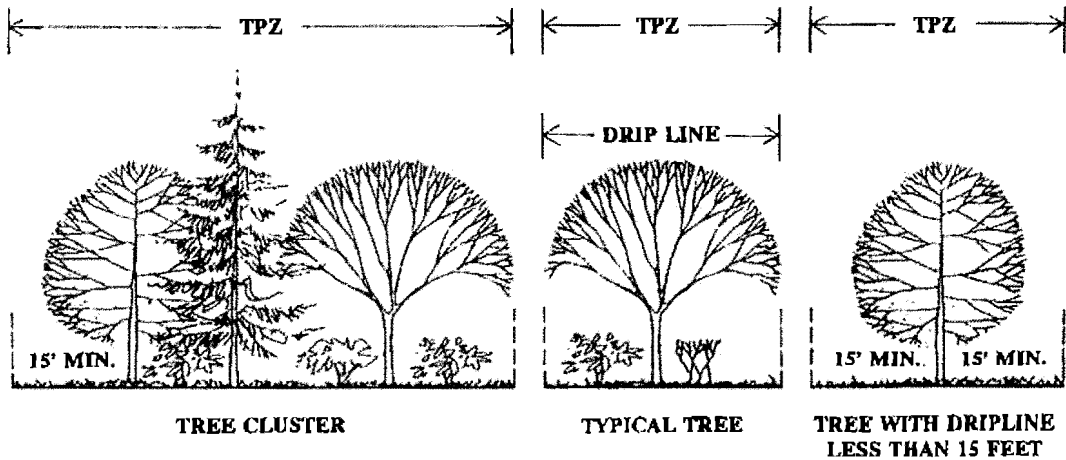


Figure 2-H
Tree Protection Zone



**ARTICLE III
ESTABLISHMENT OF DISTRICTS**

SECTION 300. ZONING DISTRICTS AND MAP.

The Township is hereby divided into zones or districts as shown on the Zoning Map, which, together with all notations, references and other data thereon, is hereby adopted by reference and declared to be part of this Ordinance, together with all future notations, references, and amendments. The location and boundaries of such districts shall be as shown on the map attached to and hereby made a part of this Ordinance, which map shall be designated the "Zoning Map of Elk Township". The said map, and all the notations, references, and other data shown hereon, shall be as much a part of this Ordinance as if fully described herein.

SECTION 301. IDENTIFICATION AND LOCATION OF ZONING MAP.

The Zoning Map shall be identified by the signature of the Board of Supervisors and attested to by the Secretary of the Board, together with the date of adoption of the Ordinance.

The Zoning Map shall be located in a place as designated by the Board of Supervisors and shall be the final authority as to the current zoning statutes of land and water areas in the Township, regardless of unofficial copies which may have been made or published from time to time.

SECTION 302. ZONING MAP REVISIONS.

- A. If, in accordance with the provisions of this Article and the Pennsylvania Municipalities Planning Code, Act 247 of 1968, as amended, changes are made in district boundaries they shall be entered on the zoning map promptly after the amendment has been approved by the Board of Supervisors.
- B. No changes of any nature shall be made to the Zoning Map or notations, references or other data shown thereon except in conformity with the procedures set forth in this Ordinance or any commonwealth law, if applicable. All changes shall be noted on the Zoning Map by date with a brief description of the nature of the change.

SECTION 303. REPLACEMENT OF ZONING MAP.

- A. The Board of Supervisors may, by resolution, adopt a new Zoning Map which will supersede the prior Zoning Map. However, no such correction shall have the effect of amending the original Zoning Map or any subsequent amendment thereof. The new Zoning Map shall be identified by the signatures of the Board of Supervisors, attested by the Secretary of the body, and bearing the following words: "this is to certify that this Zoning Map supersedes all previously adopted Zoning Maps of Elk Township, Chester County, Pennsylvania."
- B. Unless the prior Zoning Map has been lost or totally destroyed, the prior map or any significant parts thereof remaining shall be preserved, together with all available records pertaining to its adoption or amendment.

SECTION 304. CLASSES OF DISTRICTS.

For the purpose of this Ordinance, Elk Township is hereby divided into the following classes of Districts:

- A. **Base Districts:**
 - R-H Residential District
 - R-1 Residential District
 - R-2 Agricultural Residential District
 - AP Agricultural Preservation District
 - LV Lewisville Village District
 - C-1 Village Commercial District
 - C-2 General Commercial District

- B. **Overlay Districts:** Natural Resource Overlay Districts, including:
 - Floodplain Conservation Overlay District
 - Steep Slope Conservation Overlay District
 - Resource Conservation Overlay District

SECTION 305. INTERPRETATION OF DISTRICT BOUNDARIES.

The boundaries between districts are, unless otherwise indicated, either the centerlines of streets, lanes, watercourses and rights-of-way of power lines, pipe lines, and other public utilities; single district is indicated as including directly opposite sides of a street, lane, lake or watercourse, or right-of-way of a power line, pipe line, or other public utility; for any portion of its length, the district so indicated shall be construed to apply to the entire bed of such feature named lying within such portion of its length. Where uncertainty exists as to the location of any such boundary as shown on the Zoning Map, the following rules shall apply:

- A. Where a district boundary is indicated as approximately following a lot line or other property line, or as approximately following the centerline of a street, lane, watercourse or right-of-way of a utility line, such centerline shall be construed as such boundary line.
- B. Where a district boundary divides a lot or runs through undivided property, the location of such boundary, unless otherwise specified by figures on the Zoning Map, shall be determined by the use of the scale appearing on said Zoning Map.
- C. Where figures are shown on the Zoning Map between a street and a district boundary, they shall indicate that the district boundary runs parallel to the street line at a distance therefrom equivalent to the number of feet so indicated, unless otherwise specified. Where scaled distances do not agree with such figures, the figures shall control.

SECTION 306. BOUNDARY TOLERANCES.

Where a lot is divided by a district boundary line other than a boundary line of the Floodplain Conservation Overlay District, the uses permitted in the less restrictive district may extend into that portion of said lot in the more restrictive district to the nearest lot line, but in no case a greater distance than fifty (50) feet, so long as full use is made of the less restricted area before extension into the more restricted area of the said lot, and provided, however, that the area and bulk regulations of the less restrictive district shall not be so extended and further provided that in no case shall the uses permitted in an abutting district be extended for any distance into a Floodplain Conservation Overlay District.

**ARTICLE IV
R-H RESIDENTIAL DISTRICT**

SECTION 400. PURPOSE.

The R-H Residential District has been established to achieve the following purposes:

- A. To provide for higher density residential uses in appropriate areas that are easily accessible to major roadways and commercial areas while promoting the preservation of open space and natural resources.
- B. To allow for a variety of housing types in well-designed subdivisions that provide potential consumer activity for nearby commercial facilities.

SECTION 401. USE REGULATIONS.

In the R-H Residential District, the following regulations shall apply:

- A. **By Right Uses.** A building may be erected, altered or used, and a lot may be used or occupied, for any of the following purposes, and no other:
 - 1. Non-Intensive Agricultural uses and related buildings and structures in accordance with the provisions of Section 1202.
 - 2. Single family detached dwelling in accordance with the provisions of Section 402.A.
 - 3. Single family semi-detached dwelling (twin) in accordance with the provisions of Section 402.B.
 - 4. Two (2) family detached dwelling (duplex) in accordance with the provisions of Section 402.B.
 - 5. Single family attached dwelling (Townhouse) in accordance with the provisions of Section 402.B. and Section 1219.
 - 6. A Village Green or Park.
 - 7. Minor home occupation in accordance with the provisions of Section 1215.
 - 8. Accessory agricultural dwelling in accordance with the provisions of Section 1202.
 - 9. Forestry in accordance with the provisions of Section 1103.E.5.

- B. **Conditional Uses.** Any one of the following uses when authorized as a conditional use by the Board of Supervisors:
1. Multi-family dwellings in accordance with the provisions of Section 402.C. and Section 1219.
 2. Mobile home park in accordance with the provisions of Section 1218.
 3. Major home occupations in accordance with the provisions of Section 1215.
 4. Communication antennas, towers, and equipment in accordance with the provisions of Section 1203.
- C. **Accessory Uses.** Any of the following accessory uses shall be permitted:
1. Customary accessory agricultural and residential uses and buildings, when in accordance with the provisions of Section 1201.
 2. Any other customary accessory use or building provided such uses are clearly incidental to the primary residential use in accordance with the provisions of Section 1201.
 3. Signs in accordance with the provisions of Article XIV.

SECTION 402. AREA AND BULK REGULATIONS.

- A. The following area and bulk regulations shall apply to Single Family Detached Dwellings with on-site sewer and water:
- | | | |
|----|------------------------------------|----------|
| 1. | Minimum lot area | 1 acre |
| 2. | Minimum lot width at building line | 150 feet |
| 3. | Minimum lot width at street line | 50 feet |
| 4. | Maximum lot coverage | 15% |
| 5. | Maximum building coverage | 10% |
| 6. | Minimum building setback line | 50 feet |
| 7. | Minimum side yard | 25 feet |
| 8. | Minimum rear yard | 50 feet |
- B. The following area and bulk regulations shall apply to single family semi-detached, two (2) family detached, and attached single-family dwellings with off-site sewer and off-site water service:
- | | | |
|----|------------------------------------|--|
| 1. | Gross density | 2 dwelling units per acre maximum with a ten thousand (10,000) square feet minimum lot size per dwelling unit. |
| 2. | Minimum lot width at building line | 75 feet |
| 3. | Maximum lot coverage | 25% |
| 4. | Maximum building coverage | 20% |
| 5. | Maximum building setback line | 40 feet |

- 6. Maximum side yard 15 feet
- 7. Maximum rear yard 30 feet

C. The following area and bulk regulations shall apply to Multi-family dwellings with off-site sewer and water service:

- 1. Minimum tract size 10 acres
- 2. Maximum gross density 2 dwelling units per acre
- 3. Maximum net density 6 dwelling units per acre
- 4. Minimum tract width at building line 400 feet
- 5. Maximum tract coverage 40%
- 6. Maximum building coverage 25%
- 7. Setbacks 75 feet minimum from entire tract boundary
- 8. Minimum dwelling unit width 20 feet
- 9. Required open space 40% minimum

A minimum of forty (40%) percent of the total area of the tract shall be designated as and used exclusively for common open space. The design, ownership, maintenance, and preservation of common open space and facilities shall be in accordance with Section 1301.A. of this Ordinance.

SECTION 403. HEIGHT RESTRICTIONS.

The maximum height of buildings erected or enlarged shall be thirty-five (35) feet.

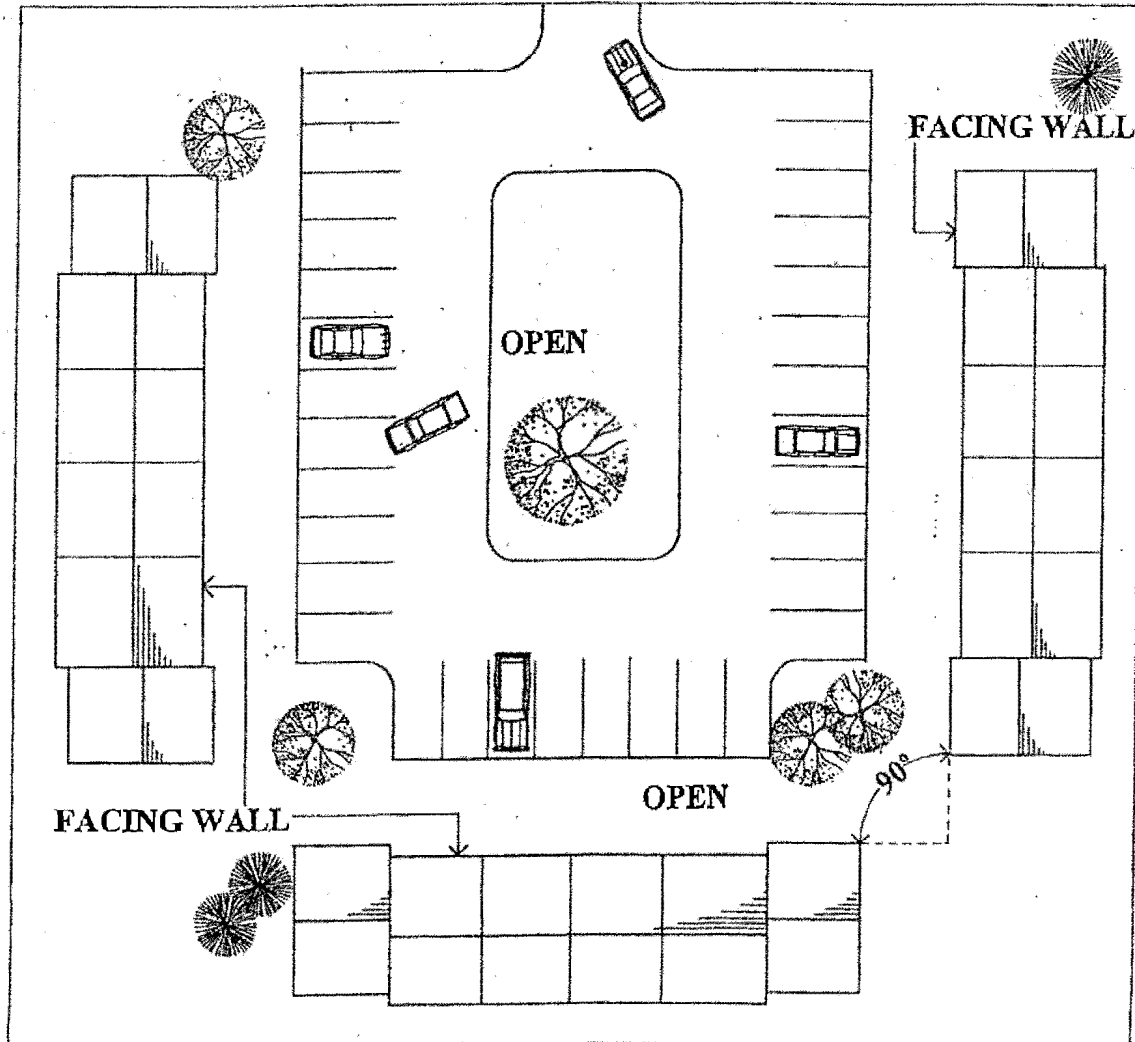
SECTION 404. SITE DEVELOPMENT STANDARDS.

A. The following site development standards shall apply to townhouse and multi-family development:

- 1. Buffer/Screening. A tract perimeter with a minimum width of fifty (50) feet shall be required to form an effective screen from and to adjacent uses. This buffer shall be landscaped according to the provisions of Section 1301.E.
- 2. Courts. Townhouse and multi-family buildings shall be laid out in such a way that a court is created. The buildings shall be arranged around this defined court in accordance with the illustration in **Figure 4-A**. Where existing site conditions permit, facing walls of buildings shall be at right (90°) angles of one another in accordance with the illustration in **Figure 4-A**. In addition, the following regulations shall apply:
 - a. At least twenty-five (25%) percent of a court formed by three (3) or more building faces shall be open space not occupied by parking areas or other uses, court areas are to be measured on a straight line between building owners.
 - b. A separation distance shall be created of no less than two hundred (200) feet between courts, measured from building corners forming the perimeter of courts.

3. **Building Separation.** The minimum horizontal distance between separate buildings shall be as follows:
 - a. Between parallel facing walls or facing walls within forty-five (45) degrees of being parallel, seventy-five (75) feet if either wall contains windows. Please refer to **Figure 4-B.**
 - b. In all other cases of facing walls, fifty (50) feet.
4. **Rear of Building.** The rear of buildings shall not face or be within forty-five (45) degrees of being parallel to any adjacent public road.

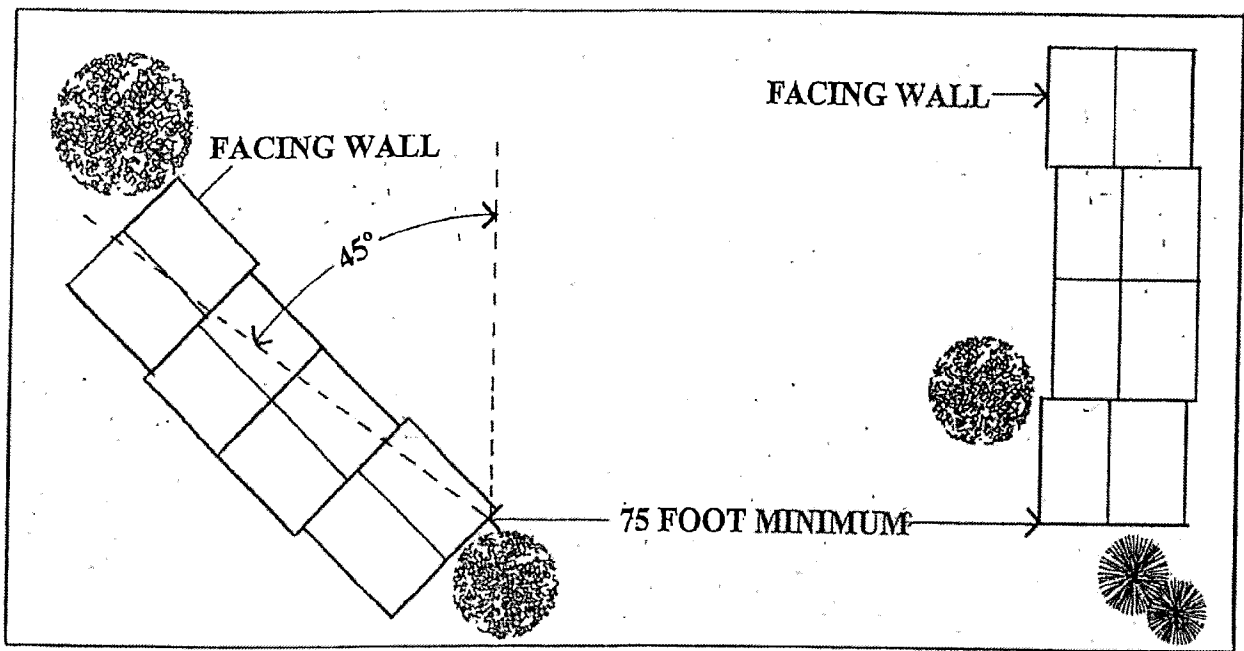
Figure 4-A
Court



5. Attached Building (Townhouse).

- a. The arrangement of two (2) or more buildings in clusters as seen in front elevation or an elevation normal thereto shall have a maximum horizontal dimension of two hundred (200) feet if each building is variously oriented. The maximum horizontal dimension of clusters oriented in the same direction shall be two hundred seventy-five (275) feet.

**Figure 4-B
Separation of Facing Walls**



- b. There shall be no more than eight (8) units to any single building and no more than three (3) buildings to any court.
 - c. Buildings shall be arranged in a maximum of two (2) rows within forty-five (45) degrees of being parallel. Arrangement of buildings in three (3) or more rows, whether with long or short walls facing, will not be permitted.
 - d. Exterior walls greater than eighty (80) feet in length will not be approved and exterior walls parallel to fire walls, at least five (5) feet in horizontal length and of full height, may be required to assure offset of the building facade or a variety of exterior surfaces of both.
6. Other Multi-Family Buildings and Apartment Buildings. Apartment buildings and other multi family buildings shall have a maximum exterior wall perimeter at any level of no more than six hundred forty (640) feet, no straight line segment of which may be longer than eighty (80) feet.

7. Accessory Uses. No outdoor swimming pool, tennis court or similar facility shall be located closer than one hundred (100) feet to any adjacent residential buildings or property line.
8. Access Drives. Entrances shall be a minimum of twenty-four (24) feet wide and have a depth of forty (40) feet before intersected by an internal access aisle.
9. Parking Lots.
 - a. A minimum of ten (10%) percent of all parking areas shall be landscaped in accordance with Section 1301.E. of this Ordinance.
 - b. There shall be a landscaped buffer along all property lines which abut a district boundary. Plantings within the buffer shall have a minimum depth of thirty (30) feet and be in accordance with Section 1301.E. of this Ordinance. The residual portion of a lot, that area without parking, buildings, or buffer, shall be landscaped in accordance with Section 1301.E. of this Ordinance.

SECTION 405. GENERAL DESIGN STANDARDS.

The following design standards shall apply to all uses, as applicable, in this zoning district:

- A. Natural Resource Protection Standards shall be in accordance with Article XI.
- B. Supplemental Regulations shall be in accordance with Article XII.
- C. General Regulations shall be in accordance with Article XIII.
- D. Signage Regulations shall be in accordance with Article XIV.
- E. Nonconforming Uses shall be in accordance with Article XVI.

ARTICLE V
R-1 RESIDENTIAL DISTRICT

SECTION 500. PURPOSE.

It is the intent of the R-1 District, as outlined by the Elk Township Comprehensive Plan:

- A. To provide for low to moderate density residential development in areas of the Township which are not generally characterized by steep slopes or floodplains, and which contain soils conditional for on-lot sewage disposal systems and variable groundwater yields;
- B. To encourage continued agricultural, open space, and conservation uses while also permitting low to moderate density residential development compatible with established use patterns.

SECTION 501. USE REGULATIONS.

In the R-1 Residential District, the following regulations shall apply:

- A. **By Right Uses.** A building may be erected, altered or used, and a lot may be used or occupied for any of the following purposes, and no other:
 - 1. Non-intensive agricultural uses and related buildings and structures in accordance with the provisions of Section 1202.
 - 2. Educational use in accordance with the provisions of Section 1211.
 - 3. Non-commercial recreational uses in accordance with the provisions of Section 1225.
 - 4. Bed and breakfast in accordance with the provisions of Section 1206.
 - 5. Single family detached dwellings under the cluster development option in accordance with the provisions set forth in Section 503.A.
 - 6. Single family detached dwellings under the conventional development option in accordance with the provisions set forth in Section 503.B.
 - 7. Minor home occupations in accordance with the provisions of Section 1215.
 - 8. Accessory agricultural dwelling in accordance with the provisions of Section 1202.
 - 9. Forestry in accordance with the provisions of 1103.E.5.
- B. **Special Exception Uses.** Any one of the following uses when authorized as a special exception by the Zoning Hearing Board:
 - 1. Public utility operating facilities.

2. Municipal, county, state or federal uses, excluding dumps and corrective or penal institutions.
 3. Fraternal institution, or non-profit club, or swimming pool, provided that a particular activity shall not be one which is customarily carried on as a business, and provided that all services shall be for members and their guests.
 4. Commercial day care center in accordance with the provisions of Section 1208.
 5. Cemetery in accordance with the provisions of Section 1207.
- C. **Conditional Uses.** Any one of the following uses when authorized as a conditional use by the Board of Supervisors:
1. Group homes in accordance with the provisions of Section 1214.
 2. Major home occupations in accordance with the provisions of Section 1215.
 3. Communication antennas, towers, and equipment in accordance with the provisions of Section 1203.
- D. **Accessory Uses.** Any of the following accessory uses shall be permitted:
1. Customary accessory agricultural and residential uses and buildings, when in accordance with the provisions of Section 1201.
 2. Swimming pool subject to the provisions of Section 1231 and provided that it is located in the rear yard or side yard of the dwelling to which it is an accessory, and located not less than ten (10) feet from any lot line.
 3. The sale of farm products in accordance with the provisions of Section 1202.
 4. Non-commercial greenhouses in accordance with the provisions of Section 1201B.2.
 5. Sign in accordance with the provisions of Article XIV.

SECTION 502. HEIGHT RESTRICTIONS.

The maximum height of buildings erected or enlarged shall be thirty-five (35) feet.

SECTION 503. AREA AND BULK REGULATIONS.

The cluster development option shall be permitted on any parcel of at least twenty (20) acres in size. Development permitted under the cluster development option must be served by an individual sewage systems.

A. **(Cluster Development Option) Single Family Detached Dwellings:**

- | | | |
|-----|------------------------------------|----------------------------|
| 1. | Density | One dwelling unit per acre |
| 2. | Minimum lot area | 30,000 square feet |
| 3. | Minimum lot width at building line | 125 feet |
| 4. | Minimum lot width at street line | 50 feet |
| 5. | Maximum lot coverage | 15% |
| 6. | Maximum building coverage | 10% |
| 7. | Minimum building setback line | 40 feet |
| 8. | Minimum side yard | 25 feet |
| 9. | Minimum rear yard | 50 feet |
| 10. | Minimum Open Space Requirement | 45% |

- a. A minimum of 45% of the gross site area shall be designated on the plan as common open space and held in a tract or tracts separate from the developable lots. Such open space shall be restricted from further subdivision or land development by deed restriction, conservation easement, or other agreement or form acceptable to the Township and duly recorded in the office of the Recorder of Deeds of Chester County, Pennsylvania and shall be noted on the subdivision plan of record.
- b. Open Space areas required under the cluster development option shall adhere to the standards specified in Section 1301. A.

B. **(Conventional Development Option) Single Family Detached Dwellings with on-site sewer and water:**

- | | | |
|----|------------------------------------|----------|
| 1. | Minimum lot area | 1 acre |
| 2. | Minimum lot width at building line | 150 feet |
| 3. | Minimum lot width at street line | 50 feet |
| 4. | Maximum lot coverage | 15% |
| 5. | Maximum building coverage | 10% |
| 6. | Minimum building setback line | 50 feet |
| 7. | Minimum side yard | 25 feet |
| 8. | Minimum rear yard | 50 feet |

C. **Agricultural Use.** Agriculture, farmhouses and usual farm buildings shall be permitted without restriction, except as follows:

- 1. To qualify as an agricultural use, the minimum lot size shall be ten (10) acres.
- 2. No barn lot, mushroom house, or manure storage, or other operation involving an obnoxious odor or appearance or air pollution shall be established closer than two hundred (200) feet to any property line unless mutually agreed on by all landowners of land within two hundred (200) feet of the proposed site. In no instance shall be less than fifty (50) feet to any property line.
- 3. Silos and bulk bins shall be exempted from area and bulk regulations when attached to an existing building.

- D. Residential accessory buildings may be erected in side and rear yards, provided that there remains side or rear yards of at least ten (10) feet from the accessory building to the side or rear lot lines.

- E. The following standards shall apply to all Other Uses permitted under Conditional Use or Special Exception except as specified otherwise in Article XII:
 - 1. Minimum lot area 2 acres
 - 2. Minimum lot width at building line 200 feet
 - 3. Minimum lot width at street line 50 feet
 - 4. Maximum lot coverage 20%
 - 5. Maximum building coverage 10%
 - 6. Minimum building setback line 50 feet
 - 7. Minimum side yards (individual) 25 feet
 - 8. Minimum rear yard 50 feet

SECTION 504. GENERAL DESIGN STANDARDS.

The following design standards shall apply to all uses, as applicable, in this zoning district:

- A. Natural Resource Protection Standards shall be in accordance with Article XI.
- B. Supplemental Regulations shall be in accordance with Article XII.
- C. General Regulations shall be in accordance with Article XIII.
- D. Signage Regulations shall be in accordance with Article XIV.
- E. Nonconforming Uses shall be in accordance with Article XVI.

ARTICLE VI
R-2 AGRICULTURAL RESIDENTIAL DISTRICT

SECTION 600. PURPOSE.

The R-2 Agricultural Residential District has been established to achieve the following purposes:

- A. To implement the Township Comprehensive Plan goal of preserving agricultural lands and the continued prosperity of the agriculture industry in the Township.
- B. To support the preservation of sensitive environmental features, such as streams, floodplains, wetlands, areas of steep slopes, and areas of soils conditional, for on-lot sewage disposal/systems and variable groundwater yields.
- C. To provide opportunities for housing types at a density and in a cluster configuration that preserve and protect the rural character of Elk Township and preserve permanent open space areas large enough to support continued agricultural use.
- D. To limit haphazard and strip development of agricultural lands by providing an opportunity for non-agricultural uses in a planning setting as would be compatible with the rural character of the Township.
- E. Provide farmers with a variety of agriculture related use opportunities to help supplement farm income.

SECTION 601. USE REGULATIONS.

In the R-2 Agricultural Residential District, the following regulations shall apply:

- A. **By Right Uses.** A building may be erected, altered or used, and a lot may be used or occupied for any of the following purposes, and no other:
 - 1. Non-intensive agricultural uses and related buildings and structures in accordance with the provisions of Section 1202.
 - 2. Woodland preserve, game farm and preserve, wildlife sanctuary or other conservation purpose in accordance with the provisions of Section 1233.
 - 3. Horticultural uses relating to the raising, propagating and selling of trees, shrubs, flowers and other vegetative materials.
 - 4. Tenant house.
 - 5. Business associated with agriculture, including but not limited to the sale of farm products, farm machinery, equipment and supplies.
 - 6. Single family detached dwellings, in accordance with the provisions of the Cluster Development Option in Section 605.

7. Minor home occupations in accordance with the provisions of Section 1215.
8. Bed and breakfast facilities in accordance with the provisions of Section 1206.
9. Accessory agricultural dwelling in accordance with the provisions of Section 1202.
10. Forestry in accordance with the provisions of Section 1103.E.5.
11. One (1) single-family detached dwelling in accordance with the Conventional Development in Section 606, subject to the following conditions and limitations:
 - a. The parcel from which the lot is created must have been a lot of record as of the date of the adoption of Ordinance No. 2006-02 May 1, 2006.
 - b. The lot, created for use under this Section, must be less than four (4) acres in size. No subsequent division of this created lot may occur, and all transfers must include a restriction, running with the land, that this parcel may not be further divided, or the area reduced by any means.

B. Special Exception Uses. Any one of the following uses when authorized as a special exception by the Zoning Hearing Board:

1. Public utility operating facilities.
2. Municipal, county, state or federal uses, excluding dumps and corrective or penal institutions.
3. Fraternal institution, or non-profit club, or swimming pool, provided that a particular activity shall not be one which is customarily carried on as a business, and provided that all services shall be for members and their guests.
4. Institutional use.
5. Cemetery in accordance with the provisions of Section 1207.
6. Kennel in accordance with the provisions of Section 1232.
7. Conversion of single family detached dwelling in accordance with the provisions of Section 1228.
8. Group homes in accordance with the provisions of Section 1214.

C. Conditional Uses. The following uses shall be permitted when granted by conditional use by the Board of Supervisors:

1. Single family detached dwellings, in accordance with the Conventional Development Option in of Section 606 on parcels smaller than 30 acres in size.
2. Golf course or other recreational activity customarily located in natural woodland and agricultural areas, including country club and lodges in accordance with the provisions of Sections 1225 and 1226, but excluding miniature golf courses and motor cross facilities.

3. Major home occupations in accordance with the provisions of Section 1215.
4. Communication antennas, towers, and equipment in accordance with the provisions of Section 1203.
5. Intensive agricultural uses in accordance with the provisions of Section 1202.
6. Composting operations in accordance with the provisions of Section 1202.

D. Accessory Uses. Any of the following accessory uses shall be permitted:

1. Customary accessory agricultural and residential uses and buildings, when in accordance with the provisions of Section 1201.
2. Swimming pool, provided that it is located in the rear or side yard of the dwelling to which it is an accessory use, in accordance with the provisions of Section 1231.
3. The sale of farm products, in accordance with the provisions of Section 1202.
4. Signs in accordance with the provisions of Article XIV.

SECTION 602. HEIGHT RESTRICTIONS.

The maximum height of buildings erected or enlarged shall be thirty-five (35) feet.

SECTION 603. AGRICULTURAL AREA AND BULK REGULATIONS.

- A. The following agricultural area and bulk regulations shall apply in the R-2 Agricultural Residential District:
1. A minimum lot area of ten (10) acres shall be required to qualify as an agricultural use.
 2. No compost or manure storage shall be established closer than two hundred (200) feet from an abutting residential use, and in no case closer than one hundred (100) feet from any property line.
 3. No new outdoor feed lot shall be constructed closer than twenty-five (25) feet from any property line.
- B. Residential accessory buildings may be erected in side and rear yards, provided that there remains side or rear yards of at least ten (10) feet from the accessory building to the side or rear lot lines.

SECTION 604. DENSITY DETERMINATION FOR RESIDENTIAL USES.

- A. **Density Calculation.** To determine the number of lots/dwellings permitted, the applicant shall perform the following calculation and submit evidence in the form of plans and data to verify the

accuracy of the calculation in accordance with the provisions of this Section and the Township Subdivision and Land Development Ordinance.

From the gross acreage of the site (___ acres), subtract 100% of the following:

Existing and Proposed road rights-of-way	_____ acres
Ponds and lakes	_____ acres
Wetlands	_____ acres
Floodplains	_____ acres
Prohibitive slopes	_____ acres

Subtract 25% of the following:

Class I, II, and III Agricultural Soils	_____ acres
Precautionary slopes	_____ acres

- B. **Net Buildable Acreage.** The net buildable acreage is calculated by deducting natural resources and constraints from the gross tract acreage based on the percentages specified in Section 604.A. **See example below.**
- C. **Permitted Base Density.** Determination of the maximum residential density or maximum number of units shall be based on the net buildable acreage, divided by two (2). **See example below.**

Example: An applicant owns a one hundred (100) acre parcel of land. Natural resources located on the tract include ten (10) acres of floodplain, five (5) acres of prohibitive slope, and ten (10) acres of Class, I, II, and III agricultural soils. In addition, there are two (2) acres of existing road right-of-way that bisect the parcel. Based on the calculation specified above, the following percentages of each resource or constraint are to be preserved:

Existing Road Right-of-Way	100%
Floodplain and Prohibitive Slopes	100%
Class I, II, and II Agricultural Soils	25%

Acres of resource/constraint to be preserved:

Existing Road Right-of-Way	2 acres
Floodplains and Slopes	15 acres
Agricultural Soils	<u>2.5 acres</u>

Resource/constraint acres to be deducted: 19.5 acres

Subtract the 19.5 acres to be preserved or net-out from the original (gross acreage) parcel size of 100 acres and the result is 80.5 acres. Round the resulting net acreage down to the nearest whole number, in this case 80. Divide eighty (80) by 2 (the density factor) and the result is 40. The resulting number of 40 represents the net density or permitted number of lots/units permitted on the original parcel.

SECTION 605. CLUSTER DEVELOPMENT

Cluster Developments are mandatory on lots consisting of thirty (30) acres, or more, as of the date of the adoption of this Zoning Ordinance, on which a residential use shall serve as the principal use, unless the owner satisfies the requirements of Section 601.A.11.

- A. **Permitted Density.** To determine the number of lots/dwelling units permitted in a cluster development, the applicant shall perform the calculation set forth in Section 604 and shall submit evidence in the form of plans and data to verify the accuracy of the calculations in accordance with the provision of Section 604 and the Township Subdivision and Land Development Ordinance.
- B. **Area and Bulk Regulations.** The area and bulk regulations associated with the Cluster Development Option are organized according to a hierarchy of sewer and water facilities available. Table 6-1 organizes those sewer and water facilities, the associated area and bulk regulations, and open space requirement. No new dwelling shall be located closer than two hundred (200) feet from an existing outdoor feedlot, compost or manure storage or mushroom house.
- C. **Required Information Prior to Development.** In addition to the information required for a Preliminary Plan in Section 501.K. of the Elk Township Subdivision and Land Development Ordinance, as amended, the applicant shall provide the following information for any proposed cluster subdivision in order to establish the number of lots permitted on a tract and the portions of the tract to be protected during the development process:
1. Delineation and the calculated area of all portions of the tract meeting the definition of precautionary or prohibitive slope;
 2. Delineation and the calculated area of all portions of the tract meeting the definition of flood plain;
 3. Delineation and the calculated area of all portions of the tract meeting the definition of wetland, not limited to those wetland areas which are proposed for earth disturbance;
 4. Delineation and the calculated area of all Class I, II, and III agricultural soils, as established by the United States Department of Agriculture as Agricultural Capability Units I, II and III and described in the Soil Survey of Chester and Delaware Counties, Pennsylvania, 1959 published by the Soil Conservation Service of the United States Department of Agriculture, as updated;
 5. The calculation of permitted number of lots/units per the requirements of Section 604;
 6. The location(s) of barns, feedlots, and other areas of intensive agricultural use, both on the subject property and on adjacent properties (when located within one hundred (100) feet of the subject property);
 7. The location(s) of permanent open space, either publicly owned or privately deed restricted, on all applicable adjacent properties;
 8. Delineation of the portion of the tract designated as permanent open space, the percentage of the tract represented by this open space, and the percentages of this open space consisting of natural resources and class I, II, and III agricultural soils.

- D. **Open Space Density Bonus.** For every additional one (1%) percent of open space area provided above and beyond the applicable minimum open space requirement (as specified in Table 6-1), the Township shall permit one additional dwelling unit in accordance with the applicable area and bulk regulations up to a maximum of ten (10%) percent above the base net density, calculated in accordance with Section 604. In no case shall the required open space percentage be less than that specified in Table 6-1.
- E. **Access Management.** A proposed cluster development on any parcel with frontage on Pennsylvania State Route 841 or Pennsylvania State Route 472 shall:
1. Gain access from other adjacent roads, if any, rather than either State Route 841 or State Route 472, unless the applicant demonstrates to the Township's satisfaction that the only feasible access to the property is from one of the aforementioned state routes; or
 2. If no access is feasible from another lower functioning road, one access point on either of the aforementioned state routes shall be permitted per cluster development, except that for subdivisions of more than thirteen (13) lots, a second access point or emergency access point may be permitted, at the Township's discretion.
- F. **Open Space Standards.**
1. Required Open Space. The minimum required open space percentage of the gross site area, designated in Table 6-1, shall be designated on the plan as common open space and held in a tract or tracts separate from the developable lots. Such open space parcel(s) shall be restricted from further subdivision or development by deed restriction, conservation easement, or other agreement or form acceptable to the Township and duly recorded in the office of the Recorder of Deeds of Chester County, Pennsylvania and shall be noted on the face of the subdivision plan.
 2. Natural Resources. All natural resources (As defined in Section 201 – Definition of Terms) shall be included within the designated open space, however, no more than eighty (80%) percent of the total designated open space shall consist of natural resources.
 3. Agricultural Soils. Any Class I, II, and III agricultural soils that are present on the site shall be included in the designated open space to the greatest extent feasible. The burden shall be on the applicant to justify the location of any such soils outside of the designated open space.

Table 6-1 Cluster Development Option - Residential Water and Sewage Facility Options Area, Bulk, and Open Space Standards		
Water and Sewage Facility Options	Individual Sewage System and Individual On-lot Water Supply	Individual Sewage System and Community or Public Water Supply
Base Density	1 du/2 acres	1 du/2 acres
Minimum Net Lot Area	1 acre	30,000 square feet
Minimum Tract Open Space	45%	55%
Minimum Lot Width at Building Line	150 feet	125 feet
Minimum Lot Width at Street Line	50 feet	40 feet
Maximum Building Coverage	10%	15%
Maximum Lot Coverage	15%	20%
Individual Lot Front Setback	40 feet	40 feet
Individual Lot Side Setback	20 feet	15 feet
Individual Lot Rear Setback	50 feet	40 feet
Maximum Building Height	35 feet or 3 stories, whichever is less	35 feet or 3 stories, whichever is less

4. Where common open space is designated as separate, noncontiguous parcels, no single parcel shall consist of less than one (1) acre in area. No single area or portion of an area designated as common open space shall be counted toward the minimum required open space wherever such area or portion is less than one hundred and fifty (150) feet in width except in the case of a trail corridor or other linkage between two larger, noncontiguous, open space areas. Any such trail corridor or linkage shall be a minimum of fifteen (15) feet in width.
 5. Where adjacent parcels contain existing or proposed open space areas, either publicly owned or otherwise deed restricted as permanent open space, common open space shall be located contiguously to this adjacent open space whenever possible to create larger open space networks. The burden shall be on the applicant to either locate the common open space contiguous to this adjacent open space or to demonstrate, to the Township's satisfaction, that there is no feasible way to so locate said common open space.
 6. Open Space Ownership / Management Standards are set forth in Section 1301.A.
- G. Any proposed full cluster subdivision for a tract from which lots have previously been subdivided shall:
1. Calculate the ultimate number of permitted lots/units per the requirements of Section 604 based on the entire tract from which those lot(s) had been subdivided. Any lots subdivided in the interim shall count toward the total number of lots permitted in the full subdivision.
 2. Determine the amount and configuration of required open space per the requirements of Section 604 and included in Table 6-1 based on the entire tract from which those lot(s) had been subdivided. No portion of any lots subdivided in the interim may count toward the total designated open space required for the full cluster development.

SECTION 606. CONVENTIONAL DEVELOPMENT OPTION.

- A. **Density Determination.** To determine the number of lots/ dwelling units permitted in a conventional development, the applicant shall perform the calculation set forth in Section 604 and shall submit evidence in the form of plans and data to verify the accuracy of the calculations in accordance with the provisions of Section 604 and the Township Subdivision and Land Development Ordinance.
- B. **Area and Bulk.** The following area and bulk standards shall apply to parcels consisting of less than thirty (30) acres, as of the date of the adoption of this Zoning Ordinance, and parcels created under the provisions of Section 601.A.11, on which a residential use serves as the principal use:
- | | | |
|----|--------------------------|----------|
| 1. | Minimum lot size | 2 acres |
| 2. | Minimum lot width | |
| | Building line | 200 feet |
| | Street line | 50 feet |
| 3. | Minimum building setback | 50 feet |
| 4. | Minimum side yard | |
| | Individual | 20 feet |
| | Aggregate | 50 feet |

5. Minimum rear yard 50 feet
6. Maximum building coverage 8%
7. Maximum paved area 12%
8. Maximum building height 35 feet
9. Minimum setback for accessory structures 10 feet
10. No new dwelling shall be located closer than two hundred (200) feet from an existing outdoor feedlot, compost or manure storage or mushroom house.

SECTION 607. GENERAL DESIGN STANDARDS.

The following design standards shall apply to all uses, as applicable, in this zoning district:

- A. Natural Resource Protection Standards shall be in accordance with Article XI.
- B. Supplemental Regulations shall be in accordance with Article XII.
- C. General Regulations shall be in accordance with Article XIII.
- D. Signage Regulations shall be in accordance with Article XIV.
- E. Nonconforming Uses shall be in accordance with Article XVI.

**ARTICLE VII
AP - AGRICULTURAL PRESERVATION DISTRICT**

SECTION 700. AUTHORITY AND PURPOSE.

- A. **Authority.** The Agricultural Preservation District is established in accordance with:
1. Pennsylvania Act No. 247, The Municipalities Planning Code, Sections 603 (b) (5), 603 (c) 7, 603 (g) 1, 603 (h), 604 (3), and 605 (2) (vii);
 2. The Goals and Objectives of the Elk Township Comprehensive Plan (1987) and the Elk Township Open Space, Recreation, and Environmental Resources Plan (1995);
 3. Community Development Objectives in Section 106 of this Ordinance.
- B. **Purpose.** In promoting the policies of the Elk Township Comprehensive Plan and the Elk Township Open Space, Recreation, and Environmental Resources Plan the purpose of this Article is to:
1. Preserve the rural character of the Township by promoting the preservation of farmland and the continuation of the agricultural industry;
 2. Locate the Agricultural Preservation District where agricultural operations are the primary land use;
 3. Protect prime agricultural soils and existing farmland and reduce development pressure that can negatively impact the agricultural industry;
 4. Accommodate and encourage continued agricultural use on soils classified by the U.S. Department of Agriculture within agricultural capability, Class I, Class II and Class III and listed as follows:

CLASS I AGRICULTURAL SOILS:

<i>Code:</i>	<i>Soil Type:</i>	<i>% of Slope:</i>	<i>Condition:</i>
CdA	Chester silt loam	0 to 3	
Cn	Congaree silt loam		
GeA	Glenelg channery silt loam	0 to 3	
GgA3	Glenelg silt loam	0 to 3	
NaA	Neshaminy gravelly silt loam	0 to 3	
6NeA	Neshaminy silt loam	0 to 3	

CLASS II AGRICULTURAL SOILS:

<i>Code:</i>	<i>Soil Type:</i>	<i>% of Slope:</i>	<i>Condition:</i>
CdB2	Chester silt loam	3 to 8	moderately eroded
Ch	Chewacla silt loam		
CkB2	Chrome gravelly silty loam	3 to 8	moderately eroded
GeA2	Glenelg channery silt loam	0 to 3	moderately eroded
GeB	Glenelg channery silt loam	3 to 8	

CLASS II AGRICULTURAL SOILS (continued):

<i>Code:</i>	<i>Soil Type:</i>	<i>% of Slope:</i>	<i>Condition:</i>
GeB	Glenelg channery silt loam	3 to 8	
GeB2	Glenelg channery silt loam	3 to 8	moderately eroded
GnA	Glenville silt loam	0 to 3	
GnB	Glenville silt loam	3 to 8	
MgA2	Manor loam	0 to 3	moderately eroded
MgB2	Manor loam	3 to 8	moderately eroded
MoB2	Montalto channery silt loam	3 to 8	moderately eroded
NaB2	Neshaminy gravelly silt loam	3 to 8	moderately eroded
6NeB2	Neshaminy silt loam	3 to 8	moderately eroded
UogB	Urban Land/Glenville complex	0 to 8	
UsbB	Urban Land/Manor complex	0 to 8	

CLASS III AGRICULTURAL SOILS:

<i>Code:</i>	<i>Soil Type:</i>	<i>% of Slope:</i>	<i>Condition:</i>
AgB2	Aldino silt loam	0 to 3	moderately eroded
CoA	Conowingo silt loam	0 to 3	
CoB2	Conowingo silt loam	3 to 8	moderately sloped
GeC	Glenelg channery silt loam	8 to 15	
MgB3	Manor loam	3 to 8	severely eroded
MgC	Manor loam	8 to 15	
MgC2	Manor loam	8 to 15	moderately eroded
NaC2	Neshaminy gravelly silt loam	8 to 15	moderately eroded
6CwC	Conowingo silt loam	3 to 15	
GgB3	Glenelg silt loam	3 to 8	moderately sloped
GnC2	Glenville silt loam	8 to 15	moderately sloped

5. Provide development options for farmers to subdivide their properties for development in a configuration that protects the viability of the remaining land for agricultural production.
6. Provide for agricultural uses and uses compatible with or supportive of agriculture within the district.
7. Limit the type and amount of non-agricultural uses within the district in order to avoid conflicts between agricultural and non-agricultural uses.

SECTION 701. USE REGULATIONS.

In the AP Agricultural Preservation District, the following regulations shall apply:

- A. **By Right Uses.** A building or other structure may be erected, altered, or used, and a lot may be used or occupied for any one of the following purposes, and no other:
 1. Non-intensive agricultural uses in accordance with the provisions of Section 1202.
 2. Dwelling of the owner/operator of the farm, on the parent agricultural tract, or dwelling on a parent tract.

3. Agricultural-related business in accordance with the provisions of Section 1202.
4. Woodland, wildlife preserve, or conservation use in accordance with the provisions of Section 1233.
5. Riding academy or stable in accordance with the provisions of Section 1229.
6. Bed and breakfast in accordance with the provisions of Section 1206.
7. Minor home occupation in accordance with the provisions of Section 1215.
8. Kennel in accordance with the provisions of Section 1232.
9. Accessory Agricultural Dwelling in accordance with the provisions of Section 1202.
10. Forestry in accordance with the provisions of Section 1103.E.5.
11. One single family detached dwelling on a non-farm lot which conforms to the standards of Section 702.D and which is a lot of record as of the date of enactment of Ordinance No. 2010-06.

B. Special Exception Uses. Any one of the following uses when authorized as a special exception by the Zoning Hearing Board:

1. Veterinary clinic or animal hospital in accordance with the provisions of Section 1232.
2. Religious use or place of worship in accordance with the provisions of Section 1227.
3. Single-family detached dwelling on a non-farm lot, as per the requirements of this Article.
4. Residential Conversion of a single-family detached dwelling into a two (2) or three (3) family dwelling in accordance with the provisions of Section 1228.

C. Conditional Uses. Any one of the following uses when authorized as a conditional use by the Board of Supervisors:

1. Major home occupations in accordance with the provisions of Section 1215.
2. Communication antennas, towers, and equipment in accordance with the provisions of Section 1203.
3. Intensive agricultural uses in accordance with the provisions of Section 1202.
4. Composting operations in accordance with the provisions of Section 1202.

D. Accessory Uses. Any of the following accessory uses shall be permitted:

1. Customary accessory agricultural and residential uses and buildings, when in accordance with the provisions of Section 1201.
2. Signs in accordance with the provisions of Article XIV.

SECTION 702. AREA AND BULK REGULATIONS.

A. **Agricultural Uses.** In order to preserve and promote the continuation of agricultural uses in the AP- Agricultural Preservation District the following area and bulk regulations shall apply to all intensive and non-intensive agricultural uses:

1. Minimum lot area 10 acres
2. Maximum lot coverage (impervious) 10%
3. Maximum building height 35 feet, except that barns, silos, and bulk bins shall be exempt from the maximum building height limit when attached to an existing structure or located such that the distance from the base of the barn, silo, or bulk bin to both the nearest property line and the nearest street right-of-way line is no less than the height of said barn, silo, or bulk bin. In no case shall any building exceed eighty-five (85) feet in height.
4. Residential uses, where adjacent to an intensive agricultural use, shall be located a minimum of one hundred (100) feet from any adjacent intensive agricultural use.

B. **Subdivision of Parent (Agricultural) Tract for Non-Agricultural Use.** To protect, preserve, and promote agricultural uses within the AP-Agricultural Preservation District, it is the intent of this Section that the creation of non-agricultural uses shall be specified in order to retain tracts of sufficient size to be efficiently used for agricultural purposes.

1. **Applicability.** These provisions shall apply to all tracts of ten (10) acres or more held in single and separate ownership as of the effective date of this Ordinance. The parent tract and subsequent subdivided lots must meet all applicable dimensional requirements.
2. **Density.** Each parent tract containing ten (10) acres or more shall be permitted to subdivide one (1) farm parcel and/or non-farm parcel per every ten (10) acres, provided the remaining tract from which a lot is divided will not be reduced to less than ten (10) acres in size. The maximum number of lots permitted for subdivision from the parent tract shall be determined by dividing the total tract area of the parent tract by ten (10). Fractional values shall be rounded down to the next lowest whole number. See example below.

Example: An applicant has an 83.4 acre parent tract of land within the Agricultural Preservation District. (The definition for total tract area usually excludes rights-of-ways and utility easements.) The maximum number of permitted lots would be calculated by dividing the parcel size in acres (83.4) by the permitted density of one (1) lot per ten (10) acres. The equation: 83.4 divided by 10. The maximum number of lots would be 8.34. For purposes of calculation, this number would be rounded down to the next lowest whole number, resulting in eight (8) new lots permitted to be subdivided from the parent tract.

3. A non-farm lot subdivided from a parent tract shall be not less than one (1) acre and not more than two (2) acres, and the area and bulk regulations of Section 702.D. shall apply with the exception of lot area. If Pennsylvania Department of Environmental Protection (PaDEP) regulations require an area greater than two (2) acres for the dispersal of nitrate nitrogen, the land area necessary for this dispersal shall not be permitted to be a part of the lot. The owner of the parent tract from which the lot is created shall record all necessary documentation to establish and grant a plume easement over adjoining land on the parent tract to provide for the necessary dispersal of the nitrate nitrogen in the septic effluent.

4. Configuration. The layout of residential lots shall be grouped so that no more than one (1) additional access to an existing public road will result. To allow for the non-agricultural development permitted in this district, yet to preserve prime agricultural soils and areas, the layout of lots shall create the least amount of disruption to agricultural practices, operations, and Class I, II, and III soils listed in order of preference as follows:
 - a. *Preference 1 -Development on non-Productive Soils/Areas Adjacent to existing development.* Lots which are subdivided from the parent tract for non-agricultural uses shall be adjacent to developed lots or lots which were subdivided previously for non-agricultural uses;

 - b. *Preference 2- Development on Non-Productive Soils/Areas.* Lots that are subdivided from the parent tract for non-agricultural uses shall be on soils which can not feasibly be farmed due to tract location, shape, or configuration, or physical features not conducive to farming, such as rock or poor soils;

 - c. *Preference 3 - Development on Productive Soils/Areas.* If it is proposed that lots can not be located in accordance with subsections a and b, above, due to physical features, lots may be located on Class 1, 2, or 3 soils but in any case on the least agriculturally productive land or in an area that will minimize interference with agricultural practices or operations including but not limited to corners or removed areas of the tracts, along road frontage, and adjacent to other non-agricultural land uses. It shall be the burden of the applicant to demonstrate why the lot can not be subdivided in accordance with subsections a. and b., above.

5. In addition to all other information required by the Township Subdivision and Land Development Ordinance, the following information shall be submitted:
 - a. Delineation and the calculated area of all Class I, II, and III agricultural soils.

 - b. The calculation of permitted number of lots per the requirements of Section 702.C.2.

 - c. The location and uses of structures within one hundred (100) feet of the lot line.

- d. Delineation and the calculated area of agricultural constraints: tract location, shape, or configuration, wetlands, areas of prohibitive slope and rocky areas, streams, utility easements and rights-of-way.
 - e. Approximate location of future subdivision of lots from the parent tract, when less than the maximum number of lots permitted is proposed.
6. Process. The Township strongly encourages applicants to meet with the Planning Commission to discuss this development option in the form of an informal sketch plan prior to the official submission of an application. Sketch plans are useful tools to identify and correct potential design problems before the expenditure of significant time and expense, and can help to expedite the review and approval of the preliminary and/or final plan submissions.
7. Exemption from limitation on subdivision of land. A subdivision, the sole purpose of which is to transfer land to increase the size of a tract being used for agricultural purposes, where both the parent tract from which the land is being taken and the tract to which the land is being transferred will be ten (10) acres or more after such subdivision.
8. A use as permitted in this Article may be erected on any single undeveloped lot of record (parent tract) as of the effective date of this Ordinance. Such lot must be a parent tract in single and separate ownership. The parent tract must meet applicable requirements for minimum lot size, and all buildings erected on the lot must meet yard setback, lot coverage, and height regulations.
9. The provisions of this Article shall apply to all parent tracts as of the effective date of this Ordinance. Regardless of size, no parcel or lot subsequently subdivided from its parent tract shall qualify for additional lots pursuant to this Section. All subsequent owners of parcels of land subdivided from a parent tract shall be bound by the actions of the previous owners of the parent tract. Likewise, any subsequent owner of any parent tract shall be bound by the provisions of this Article and the actions of the previous owners such that for purposes of subdivision the number of number of new lot or dwellings erected on the parent tract shall be fixed according to the original number permitted on the parent tract, and this number shall not be increased by the further subdivision of the parent tract, thus transfer of ownership shall not create a new right to subdivide.
10. Any subdivision or land development plan hereafter filed for a parent tract in the AP-Agricultural Preservation District shall specify the number of lots and which lot(s) shall carry with them the right to erect or place thereon any unused quota of lots as determined and limited by the provisions of this Article.
11. In the event a tract of land not originally classified as part of the AP-Agricultural Preservation District on the effective date of this Ordinance is hereafter classified as part of said district, the size and ownership of such tract of land and its classification as a parent tract shall be determined as of the effective date of the change in the zoning classification to AP-Agricultural Preservation District.

C. **Other Uses permitted in this District.** The following regulations apply to those uses, other than agriculture and additional farm-related dwellings permitted by-right, through conditional use or special exception under Section 701. Unless specified otherwise in this Article or Article XII – Supplemental Regulations, the following regulations shall apply:

1. Minimum lot area 1 acre
2. Minimum lot width at building line 100 feet
3. Minimum lot width at street line 50 feet
4. Minimum front setback 50 feet
5. Minimum side yard 25 feet
6. Minimum rear yard 50 feet
7. Maximum building coverage (impervious) 10 %
8. Maximum lot coverage (impervious) 20 %
9. Maximum building height 35 feet
10. Vegetation Setback. On any non-farm parcel, no shrub or tree shall be planted within twenty (20) and thirty (30) feet, respectively, of any land used for agricultural purposes.

D. **Cluster Residential Development Option.** Clustering of single family residential dwellings shall be permitted in accordance with the requirements of Section 605 on tracts of less than ten (10) acres held in single and separate ownership and existing as of the effective date of this Ordinance, and no other.

SECTION 703. NON-AGRICULTURAL DWELLING OR USE NOTICE.

The primary purpose of this district is to accommodate commercial agricultural production. Owners, residents, and other property users in this district shall be subject to common characteristics of agriculture activities which are sometimes regarded as objectionable, including, but not limited to, the creation of noise, odors, dust, the operation of machinery of any kind during any time, the storage and application of manure, fertilizers, herbicides, etc., and the heavy or slow vehicle use of roads. Owners, residents, and users of this property should regard these activities as normal, ordinary, routine, and as unavoidable characteristics of an agricultural area and are furthermore assumed to have accepted these characteristics by willingly choosing to reside in the Agricultural Preservation District. Owners, residents, and users of this property should be familiar with and aware of Section 4 of Pennsylvania Act 133 of 1992, The Right to Farm Law, 3 P.S. §§ 951 et seq., may bar them from obtaining a legal judgement against such normal agricultural operations.

SECTION 704. GENERAL DESIGN STANDARDS

The following design standards shall apply to all uses, as applicable, in this zoning district:

- A. Natural Resource Protection Standards shall be in accordance with Article XI.
- B. Supplemental Regulations shall be in accordance with Article XII.
- C. General Regulations shall be in accordance with Article XIII.
- D. Signage Regulations shall be in accordance with Article XIV.

E. Nonconforming Uses shall be in accordance with Article XVI.

ARTICLE VIII
LV LEWISVILLE VILLAGE DISTRICT

SECTION 800. PURPOSE.

It is the purpose of this district to provide for small scale residential and commercial uses that preserve the historic character of the Village of Lewisville specifically as follows:

- A. Preserve the unique character of the Village of Lewisville by recognizing its historic attributes, context, and role in the development of Elk Township;
- B. Provide for mixed residential and commercial uses at a scale that respects the historic use of the properties and designed to accommodate the current and future residents of Lewisville and promote a pedestrian orientation and circulation system;
- C. Encourage infill and adaptive reuse of existing buildings that retains the size, scale, and general character of the Village of Lewisville;
- D. Encourage architectural styles and building placement that compliment the existing architecture and building form of existing residential structures; and
- E. Provide for development that implements the Elk Township Official Map and the Goals specified in the Elk Township Comprehensive Plan including:
 - 1. Preserve and protect the historic resources and character of the Township from the encroachment of incompatible land use;
 - 2. Provide continued opportunities for commercial expansion in response to the needs of the Township residents; and
 - 3. Preserve the open, rural character of the Township and to maintain the quality of the existing scenic landscape.

SECTION 801. USE REGULATIONS.

In the LV Lewisville Village District, the following regulations shall apply:

- A. **By Right Uses.** A building or other structure may be erected, altered, or used, and a lot may be used or occupied for any of the following uses, but only one of the following non-accessory uses, and no other:
 - 1. Non-intensive agricultural uses and related buildings and structures in accordance with the provisions of Section 1202.
 - 2. Single family detached dwelling.
 - 3. Two-family detached (Duplex) and single family semi-detached dwellings (Twin).

4. Individual retail stores for the sale of antiques, gifts, food, meat and poultry, drugs, flowers, dry goods, household goods, hardware, newspapers, tobacco, stationery, jewelry, office supplies or similar items, not to exceed two thousand (2,000) square feet of gross leasable floor area.
 5. Eating establishment or restaurant limited to indoor seating and service and specifically excluding drive-in windows or service, in accordance with the provisions of Section 1210.
 6. Personal service shop including barber shops, beauty shops, real estate and insurance, tailor shop, photographic studios, shoe repair and funeral services excluding crematoriums.
 7. Individual professional or administrative offices not to exceed two thousand (2,000) square feet of gross leasable floor area.
 8. Elk Township municipal uses and governmental offices and facilities, including post office and similar service facilities that specifically promote Lewisville as a community focal center.
 9. A village green or park.
 10. Banks and financial institutions in accordance with the provisions of Section 1205.
 11. Minor home occupations in accordance with the provisions of Section 1215.
 12. Other uses of a similar nature to those listed above shall be considered by the Board of Supervisors based on compatibility with other listed uses and their consistency with the goals and design standards of the Lewisville Village District and the Elk Township Official Map.
 13. Accessory agricultural dwelling in accordance with the provisions of Section 1202.
 14. Forestry in accordance with the provisions of Section 1103.E.5.
- B. Special Exception Uses.** Any one of the following uses when authorized as a special exception by the Zoning Hearing Board:
1. Commercial day care center in accordance with the provisions of Section 1208.
 2. Bed and breakfast facilities in accordance with the provisions of Section 1206.
 3. Residential conversion in accordance with the provisions of Section 1228.

- C. **Conditional Uses.** The following uses shall be permitted when granted by conditional use by the Board of Supervisors:
1. Religious use or place of worship in accordance with the provisions of Section 1227.
 2. Major home occupation in accordance with the provisions of Section 1215.
 3. A combination of two (2) or more permitted uses on a single lot or within a single building. Where a residential use is combined with a non-residential use in the Village, the first floor shall be occupied by the non-residential use. Mixed uses include the conversion of a structure existing prior to the adoption of this Ordinance to a combination of uses permitted within the applicable Village use area.
- D. **Accessory Uses.** Any of the following accessory uses shall be permitted:
1. Customary accessory agricultural and residential uses and buildings, when in accordance with the provisions of Section 1201.
 2. Private garage or private parking areas in accordance with the provisions of Section 1201.
 3. Signs in accordance with the provisions of Article XIV.
 4. Greenhouses as accessory to residential uses areas in accordance with the provisions of Section 1201B.2.

SECTION 802. AREA AND BULK REGULATIONS.

- A. **Village Development.** The following regulations shall be observed when a use is proposed using the Village Development option when planned in conjunction with the Elk Township Official Map.
1. Minimum lot area.
 - a. Area: thirty thousand (30,000) square feet per use. If more than one residential unit is proposed for a lot (as in the development of a two-family detached dwelling unit or a residential conversion), the minimum lot size shall be increased by ten thousand (10,000) square feet to a total of forty thousand (40,000) square feet with a maximum of two (2) units per acre.
 - b. Width: a minimum of seventy-five (75) feet.

2. Minimum yard dimension.
 - a. Front yard or build-to line.
 - 1) The minimum front yard setback may be determined by averaging the setbacks of adjacent existing dwellings provided adjacent buildings are a minimum of twenty (20) feet from the right-of-way line.
 - 2) In no case shall the front yard setback be more than forty (40) feet from the right-of-way line.
 - b. Side yard: ten (10) feet, but side yard may be reduced or exempted when authorized as a special exception by the Zoning Hearing Board where all of the following requirements are met:
 - 1) The adjacent lot owner agrees in writing;
 - 2) The topography and adjacent uses are compatible with such reduction; and
 - 3) Adequate access is available to the rear of any building for use by emergency vehicles or service vehicles and access to the rear is consistent with the use of the premises.
 - c. Rear yard: twenty five (25) feet.
3. Maximum lot coverage (which includes all impervious surfaces):
 - a. Twenty-five (25%) percent for residential uses.
 - b. Fifty (50%) percent for non-residential uses.
4. Maximum building height: thirty-five (35) feet.
5. Minimum landscaped area for non-residential uses: twenty (20%) percent.

SECTION 803. VILLAGE DISTRICT DESIGN STANDARDS.

All new development proposed for Lewisville Village, as well as the rehabilitation, alteration or modification of existing development within the Village District, shall comply with the following design standards in addition to the supplemental regulations and general regulation delineated in Articles XII and XIII, respectively.

- A. New development proposed for the Village of Lewisville should be designed to complement the historic character of the Village as well as the overall rural character of the Township in terms of building placement, building style, building bulk, construction materials and site design.

- B. The removal of mature trees and site vegetation shall be limited to individual building sites and shall comply to the standards set forth in Section 1103.E.5.
- C. Every effort shall be made to locate new structures in such a manner as to minimize changes to the existing contours and original topography of the site.
- D. New uses shall be constructed in accordance with a traditional grid system. Curvilinear and cul-de-sac streets shall be discouraged.
- E. A pedestrian orientation shall be maintained and sidewalks encouraged wherever possible.
- F. Parking for commercial uses shall be located in the side or rear yard of buildings. Parking for commercial uses shall not be permitted in front yards.
- G. The use of secondary access streets or alleys is encouraged as a means of accessing off-street parking, however, driveways may be used to encourage the adaptive reuse of existing structures.
- H. All activities shall be conducted within enclosed buildings (except for the operation of gasoline service stations) and outdoor storage of merchandise, equipment or similar items or materials is prohibited.
- I. Mechanical systems, trash receptacles, and dumpsters shall be located in rear or side yard and shall be screened from view in compliance with Section 1301.E.

SECTION 804. GENERAL DESIGN STANDARDS.

The following design standards shall apply to all uses, as applicable, in this zoning district:

- A. Natural Resource Protection Standards shall be in accordance with Article XI.
- B. Supplemental Regulations shall be in accordance with Article XII.
- C. General Regulations shall be in accordance with Article XIII.
- D. Signage Regulations shall be in accordance with Article XIV.
- E. Nonconforming Uses shall be in accordance with Article XVI.

**ARTICLE IX
C-1 VILLAGE COMMERCIAL DISTRICT**

SECTION 900. PURPOSE.

It is the intent of the C-1 Village Commercial District, as outlined by the Elk Township Comprehensive Plan to:

- A. Provide for a continued mix of residential, retail, and service establishments to serve the needs of local residents within a village-like setting.
- B. Establish standards for a unified and organized arrangement of buildings, service, and parking areas to facilitate access management in the Township.
- C. Encourage adaptive reuse of existing buildings that retain the size, scale, and general character of the area surrounding the intersection of Hickory Hill Road (Route 472) and Lewisville/Media Road.

SECTION 901. USE REGULATIONS.

In the C-1 Village Commercial District, the following regulations shall apply:

- A. **By Right Uses.** A building may be erected, altered or used, and a lot may be used or occupied, for any of the following purposes, and no other:
 - 1. Non-intensive agricultural uses and related buildings and structures in accordance with the provisions of Section 1202.
 - 2. Individual retail stores for the sale of antiques, gifts, food, meat and poultry, drugs, flowers, dry goods, household goods, hardware, newspapers, tobacco, stationery, jewelry, office supplies or similar items.
 - 3. Automotive, truck, and farm equipment sales and service in accordance with Section 1204.
 - 4. Eating establishments/restaurants in accordance with the provisions of Section 1210.
 - 5. Farm supply outlet.
 - 6. Service establishments including offices, banks, and medical clinics.
 - 7. Animal hospital in accordance with the provisions of Section 1232.
 - 8. Religious use or place of worship in accordance with the provisions of Section 1227.
 - 9. Personal service shop including barber shops, hair dresser/ beauty shops, real estate and insurance, tailor shop, photographic studios, shoe repair, dry cleaning and pressing, and funeral services excluding crematoriums.

10. Bakery, confectioner, or custom shop for production of articles to be sold at retail on the premises.
11. Single family detached dwelling in accordance with the provisions of Section 902.
12. A village green or park.
13. Individual professional or administrative offices not to exceed two thousand (2,000) square feet of gross leasable floor area in accordance with the provisions of Section 1217.
14. Municipal or public uses, governmental or public utility building or uses.
15. Multi-use of a lot as a planned commercial development, provided that the uses conform collectively to the area and bulk regulations of Section 902.
16. Minor home occupations in accordance with the provisions of Section 1215.
17. Accessory agricultural dwelling in accordance with the provisions of Section 1202.
18. Forestry in accordance with the provisions of Section 1103.E.5.
19. Similar Uses as approved by the Board of Supervisors.

B. Special Exception Uses. Any one of the following uses when authorized as a special exception by the Zoning Hearing Board:

1. Commercial day care center in accordance with the provisions of Section 1208.

C. Conditional Uses. Any one of the following uses when authorized as a conditional use by the Board of Supervisors:

1. Major home occupations in accordance with the provisions of Section 1215.
2. Gasoline service stations in accordance with the provisions of Section 1213.
3. Funeral parlor or undertaker's establishment.
4. Craftsman, trade, repair, contractor shop or offices, such as carpentry, plumbing, welding, electrical, or machine shop.

D. Accessory Uses. Any of the following accessory uses shall be permitted:

1. Customary accessory agricultural and residential uses and buildings, when in accordance with the provisions of Section 1201.
2. Private garage, private parking area, storage sheds, or other customary residential accessory uses in accordance with the provisions of Section 1201 B.
3. Signs in accordance with the provisions of Article XIV.

SECTION 902. AREA AND BULK REGULATIONS.

The following area and bulk regulations shall apply to all residential uses permitted in the C-1 Village Commercial District:

A. Single family detached dwellings with on-site sewer and water:

- | | | |
|----|------------------------------------|---------------------|
| 1. | Minimum lot area | 43, 560 square feet |
| 2. | Minimum lot width at building line | 100 feet |
| 3. | Minimum lot width at street line | 50 feet |
| 4. | Maximum lot coverage | 15% |
| 5. | Maximum building coverage | 10% |
| 6. | Minimum building setback line | 50 feet |
| 7. | Minimum side yard, individual | 20 feet |
| 8. | Minimum rear yard | 50 feet |

B. Single family detached dwelling with off-site sewer and water service:

- | | | |
|----|------------------------------------|--------------------|
| 1. | Minimum lot area | 18,000 square feet |
| 2. | Minimum lot width at building line | 80 feet |
| 3. | Maximum lot coverage | 20% |
| 4. | Maximum building coverage | 15% |
| 5. | Minimum building setback line | 50 feet |
| 6. | Minimum side yard, individual | 15 feet |
| 7. | Minimum rear yard | 40 feet |

The following area and bulk regulations shall apply to all commercial uses permitted in the C-1 Village Commercial District:

C. All other uses:

- | | | |
|----|-------------------------------|---|
| 1. | Minimum lot area | 30,000 square feet for a single use and 2 acres for a multi-use of a lot with a minimum of 10,000 square feet for each individual use |
| 2. | Minimum lot width | 100 feet for single use, and 200 feet for multi use |
| 3. | Maximum lot Coverage | 30% |
| 4. | Maximum building coverage | 20% |
| 5. | Minimum landscaped open space | 30% |
| 6. | Minimum building setback line | 65 feet |
| 7. | Minimum side yard, individual | 20 feet for single use, and 50 feet for multi-use |
| 8. | Minimum rear yard | 50 feet |

D. Accessory Buildings. Residential accessory buildings may be erected in side and rear yards, provided that an accessory building shall be set no closer than ten (10) feet to a side or rear lot line or in the case of a commercial use no closer than the greatest dimension (length or width) of the building itself.

SECTION 903. HEIGHT RESTRICTIONS.

The maximum height of buildings erected or enlarged shall be thirty-five (35) feet.

SECTION 904. SITE DEVELOPMENT STANDARDS.

The following site development standards shall apply to multi-use commercial development of a lot:

- A. **Site Development Plan.** Prior to the issuance of a building permit, or any use and occupancy permit, the applicant shall prepare a Site Development Plan indicating how the lot will be developed. The plan shall also identify specific ownership and maintenance responsibilities of the lot, buildings, structures, and other improvements.
- B. **Access.**
 - 1. A single shared access shall be provided in order to limit new accesses onto Route 472 or Hickory Hill Road. Access shall take the form of an internal road which directs traffic to a single entrance with divided lanes, or by means of reverse frontage access.
 - 2. Entrances shall be a minimum of twenty-four (24) feet wide and have a depth of forty (40) feet before intersected by an internal access road.
- C. **Right-of-way.** There shall be a minimum right-of-way of thirty (30) feet measured from centerline provided along Route 472.
- D. **Landscaping.** There shall be a landscaped area provided between the highway and interior parking areas with a minimum of eight (8) feet, extending the entire frontage. No improvements other than access drives shall be permitted within this landscaped area. Landscaping species shall be resistant to road salt and pollution associated with vehicular traffic. Please refer to Section 1301.E.7. for a list of approved plant materials.
- E. **Parking.**
 - 1. A minimum of ten (10%) percent of all parking areas shall be landscaped in accordance with Section 1301.E. of this Ordinance.
 - 2. Parking requirements shall be independently calculated for each use in accordance with Section 1304 of this Ordinance. Parking facilities may be designed as a common parking lot, provided the required number of parking spaces are provided for each use.
- F. **Buffer/Screening.** There shall be a landscaped buffer along all property lines which abut a residential use or district boundary. Plantings within the buffer shall have a minimum depth of thirty (30) feet. The residual portion of a lot, that area without parking, buildings, or buffer, shall be landscaped in accordance with Section 1301.E. of this Ordinance.
- G. **Signs.** Only one (1) free-standing sign shall be permitted on a planned commercial development lot. Such sign may serve as a directory use on the lot. All individual signs shall be mounted to the building or structure housing the use. Signs shall be designed in accordance with Article XIV.

SECTION 905. GENERAL DESIGN STANDARDS.

The following design standards shall apply to all uses, as applicable, in this zoning district:

- A. Natural Resource Protection Standards shall be in accordance with Article XI.
- B. Supplemental Regulations shall be in accordance with Article XII.
- C. General Regulations shall be in accordance with Article XIII.
- D. Signage Regulations shall be in accordance with Article XIV.
- E. Nonconforming Uses shall be in accordance with Article XVI.

**ARTICLE X
C-2 GENERAL COMMERCIAL DISTRICT**

SECTION 1000. PURPOSE

It is the intent of the C-2 General Commercial District to:

- A. Provide for a mix of residential, retail, and service establishments to serve the needs of local residents;
- B. Provide for light industrial uses that are in keeping with the rural character of the Township and located in an accessible area to allow more efficient delivery of services and goods;
- C. Allow for light industrial uses that will contribute to the economic and employment base of the Township;
- D. Provide opportunities for light industrial uses that will have minimal impact on land, water, and air resources, by way of emissions, traffic, parking, or other potential impacts.

SECTION 1001. USE REGULATIONS.

- A. **By Right Uses.** A building may be erected, altered or used, and a lot may be used or occupied, for any one of the following purposes:
 - 1. Non-intensive agricultural uses and related buildings and structures in accordance with the provisions of Section 1202.
 - 2. Individual retail stores for the sale of antiques, gifts, food, meat and poultry, drugs, flowers, dry goods, household goods, hardware, newspapers, tobacco, stationery, jewelry, office supplies or similar items.
 - 3. Automobile, truck, and farm equipment sales and services in accordance with the provisions of Section 1204.
 - 4. Eating establishments or restaurant in accordance with the provisions of Section 1210.
 - 5. Farm supply outlet.
 - 6. Service establishments including offices, banks, and medical clinics.
 - 7. Animal hospital in accordance with the provisions of Section 1232.
 - 8. Religious use or place of worship in accordance with the provisions of Section 1227.
 - 9. Personal service shop including barber shops, hair dresser/ beauty shops, real estate and insurance, tailor shop, photographic studios, shoe repair, dry cleaning and pressing, and funeral services excluding crematoriums.

10. Bakery, confectioner, or custom shop for production of articles to be sold at retail on the premises.
11. Individual professional, administrative, or medical offices not to exceed five thousand (5,000) square feet of gross leasable floor area in accordance with the provisions of Section 1217.
12. Municipal or public uses, governmental or public utility building or uses.
13. Multi-use of a lot as a planned commercial development, provided that the uses conform collectively to the area and bulk regulations of Section 1002.
14. Commercial day care center in accordance with the provisions of Section 1208.
15. Minor home occupations in accordance with the provisions of Section 1215.
16. Funeral parlor or undertaker's establishment.
17. Craftsman, trade, repair, contractor shop or offices, such as carpentry, plumbing, welding, electrical, or machine shop.
18. Single family detached dwelling in accordance with the provisions of Section 1002.
19. Accessory agricultural dwelling in accordance with the provisions of Section 1202.
20. Forestry in accordance with the provisions of Section 1103.E.5.
21. Similar uses as approved by the Board of Supervisors.

B. Conditional Uses. Any one of the following uses when authorized as a conditional use by the Board of Supervisors:

1. Wholesaling, warehousing, and distribution.
2. Light manufacturing involving assembly, fabrication, compounding or finishing of products from previously manufactured or processed materials.
3. Printing, publishing, or photocopying facility.
4. Packaging or cleaning operation, including dry cleaning plant.
5. Laboratory for scientific research, testing, and development.
6. Gasoline service stations in accordance with the provisions of Section 1213.
7. Commercial educational use/trade school in accordance with the provisions of Section 1211.
8. Major home occupations in accordance with the provisions of Section 1215.

- 9. Self-storage mini-warehouse use in accordance with the provisions of Section 1230.
- 10. Communication antennas, towers, and equipment in accordance with the provisions of Section 1203.
- 11. Junkyards in accordance with the provisions of Section 1234.
- 12. Intensive agricultural uses in accordance with the provisions of Section 12012.
- 13. Composting operations in accordance with the provisions of Section 1202.

C. Accessory Uses. Any of the following accessory uses shall be permitted:

- 1. Customary accessory agricultural and residential uses and buildings, when in accordance with the provisions of Section 1201.
- 2. Private garage, private parking area, storage sheds, or other customary residential accessory uses in accordance with the provisions of Section 1201 B.
- 3. Signs in accordance with the provisions of Article XIV.

SECTION 1002. AREA AND BULK REGULATIONS.

A. The following area and bulk regulations shall apply to all commercial uses permitted in the C-2 General Commercial District except as specified otherwise in Article XII:

- | | | |
|----|-------------------------------|---|
| 1. | Minimum lot area | 30,000 square feet for a single use and 2 acres for a multi-use of a lot with a minimum of 10,000 square feet for each individual use |
| 2. | Minimum lot width | 100 feet for single use, and 200 feet for multi use |
| 3. | Maximum lot coverage | 50% |
| 4. | Maximum building coverage | 25% |
| 5. | Minimum landscaped open space | 30% |
| 6. | Minimum building setback line | 65 feet |
| 7. | Minimum side yard, individual | 20 feet for single use, and 50 feet for multi-use |
| 8. | Minimum rear yard | 50 feet |

B. The following area and bulk regulations shall apply to all light industrial uses permitted in the C-2 General Commercial District:

- | | | |
|----|--------------------------------------|--------------------|
| 1. | Minimum lot area | 30,000 square feet |
| 2. | Maximum lot area | 2 acres |
| 3. | Minimum lot width (at building line) | 150 feet |
| 4. | Maximum lot coverage | 50% |
| 5. | Maximum building coverage | 25% |
| 6. | Minimum building setback line | 75 feet |

- 7. Minimum side yard 30 feet, or 50 feet when abutting or across from a non-industrial use or districts
- 8. Minimum rear yard 50 feet, or 75 feet when abutting or across from a non-industrial use or districts

C. The following area and bulk regulations shall apply to all single family detached dwellings with on-site sewer and water:

- 1. Minimum lot area 43, 560 square feet
- 2. Minimum lot width at building line 100 feet
- 3. Minimum lot width at street line 50 feet
- 4. Maximum lot coverage 15%
- 5. Maximum building coverage 10%
- 6. Minimum building setback line 50 feet
- 7. Minimum side yard, individual 20 feet
- 8. Minimum rear yard 50 feet

D. **Accessory Buildings** - Residential accessory buildings may be erected in side and rear yards, provided that an accessory building shall be set no closer than ten (10) feet to a side or rear lot line or in the case of a commercial use no closer than the greatest dimension (length or width) of the building itself.

SECTION 1003. HEIGHT RESTRICTIONS.

The maximum height of buildings erected or enlarged shall be thirty-five (35) feet.

SECTION 1004. SITE DEVELOPMENT STANDARDS.

The following site development standards shall apply to multi-use commercial or industrial development of a lot:

- A. **Site Development Plan.** Prior to the issuance of a building permit, or any use and occupancy permit, the applicant shall prepare a Site Development Plan indicating how the lot will be developed. The plan shall also identify specific ownership and maintenance responsibilities of the lot, buildings, structures, and other improvements.
- B. **Access.**
 - 1. A single shared access shall be provided in order to limit new accesses onto Chrome Road. Access shall take the form of an internal road which directs traffic to a single entrance with divided lanes, or by means of reverse frontage access.
 - 2. Entrances shall be a minimum of twenty-four (24) feet wide and have a depth of forty (40) feet before intersected by an internal access road.
- C. **Right-of-way.** There shall be a minimum right-of-way of twenty-five (25) feet measured from centerline provided along Chrome Road.

- D. **Landscaping.** There shall be a landscaped area provided between the highway and interior parking areas with a minimum of eight (8) feet, extending the entire frontage. No improvements other than access drives shall be permitted within this landscaped area. Landscaping species shall be resistant to road salt and pollution associated with vehicular traffic. Please refer to Section 1301.E.7 for a list of approved plant materials.
- E. **Parking.**
1. A minimum of ten (10%) percent of all parking areas shall be landscaped in accordance with Section 1301.E. of this Ordinance.
 2. Parking requirements shall be independently calculated for each use in accordance with Section 1304 of this Ordinance. Parking facilities may be designed as a common parking lot, provided the required number of parking spaces are provided for each use.
- F. **Buffer/Screening.** There shall be a landscaped buffer along all property lines which abut a residential use or district boundary. Plantings within the buffer shall have a minimum depth of thirty (30) feet. The residual portion of a lot, that area without parking, buildings, or buffer, shall be landscaped in accordance with Section 1301.E. of this Ordinance.
- G. **Signs.** Only one (1) free-standing sign shall be permitted on a planned commercial development lot. Such sign may serve as a directory use on the lot. All individual signs shall be mounted to the building or structure housing the use. Signs shall be designed in accordance with Article XIV.

SECTION 1005. GENERAL DESIGN STANDARDS.

The following design standards shall apply to all uses, as applicable, in this zoning district:

- A. Natural Resource Protection Standards shall be in accordance with Article XI.
- B. Supplemental Regulations shall be in accordance with Article XII.
- C. General Regulations shall be in accordance with Article XIII.
- D. Signage Regulations shall be in accordance with Article XIV.
- E. Nonconforming Uses shall be in accordance with Article XVI.

**ARTICLE XI
NATURAL RESOURCE OVERLAY DISTRICTS**

SECTION 1100. GENERAL PROVISIONS

- A. For the purposes of this Ordinance, the districts described in this Article shall be overlays to the existing underlying districts as shown on the zoning map, and as such, the provision for each of these districts shall serve as supplements to the underlying district provisions. All other provisions of all other Articles of this Ordinance and all other ordinances of the Township shall remain in full force.
- B. Three overlay districts are identified for Elk Township as follows:
 - 1. Floodplain Conservation Overlay District (Section 1101)
 - 2. Steep Slope Conservation Overlay District (Section 1102)
 - 3. Resource Conservation Overlay District (Section 1103)
- C. In those areas of the Township where an overlay district applies, the provisions of the overlay district shall be in addition to the requirements of the underlying zoning district or districts. In the event of a conflict, the more restrictive provision shall apply.
- D. Should the boundaries of an overlay district be revised as a result of legislative or administrative actions or judicial decision, the underlying zoning requirements shall continue to be applicable.

SECTION 1101. FLOODPLAIN CONSERVATION OVERLAY DISTRICT

A. Abrogation and Greater Restriction

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

B. Purpose.

In addition to the general goals listed in the Statement of Purpose, Section 101, and Community Development Objectives, Section 106, it is the purpose of these provisions to prevent the loss of property and life, the creation of health and safety hazards, the disruption of commerce and governmental services, the extraordinary and unnecessary expenditure of public funds for flood protection and relief, and the impairment of the tax base by:

- 1. Regulating uses, activities, and development which, acting alone or in combination with other existing or future uses, activities, and development, will cause unacceptable increases in flood heights, velocities, and frequencies.

2. Restricting or prohibiting certain uses, activities, and development from locating within areas subject to flooding.
3. Requiring all those uses, activities, and developments that do occur in floodprone areas to be protected and/or flood-proofed against flooding and flood damage.
4. Protecting individuals from buying lands and structures which are unsuited for intended purposes because of flood hazard.
5. Ensuring that buildings, structures and activities otherwise constructed or conducted upon areas subject to water hazard damage shall be so constructed or conducted as to mitigate, to the greatest extent possible, any risk arising from the use, activity or construction otherwise permitted to be carried on within areas subject to flood or water hazards.
6. Ensuring compliance with applicable federal regulations, including Federal Emergency Management Agency (FEMA) regulations associated with administering the National Flood Insurance Program, as related to flood prevention and floodplain management activities.

C. **Applicability.**

These provisions shall apply to all lands within the jurisdiction of Elk Township and shown as being located within the boundaries of any identified Floodplain Conservation District.

D. **Compliance.**

No structure development or land shall hereafter be used and no structure or development shall be located, relocated, constructed, reconstructed, enlarged, or structurally altered except in full compliance with the terms and provisions of this Ordinance and any other applicable ordinances and regulations which apply to uses within the jurisdiction of this Ordinance.

E. **Disclaimer of Liability.**

The degree of flood protection sought by the provisions of this Ordinance is considered reasonable for regulatory purposes and is based on acceptable engineering methods of study. Larger floods may occur on rare occasions. Flood heights may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. This Ordinance does not imply that areas outside the identified Floodplain Conservation District, or that land uses permitted within such districts will be free from flooding or flood damage.

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

F. Establishment of Zoning District.

1. Basis of District. For the purpose of this Ordinance, the Floodplain Conservation District shall be those areas of Elk Township, which are subject to the one hundred (100) year flood, as identified in the Flood Insurance Study (FIS) dated April 19, 2005 and the accompanying maps as prepared for by the Federal Emergency Management Agency (FEMA), or the most recent revisions thereof.
 - a. The Floodplain Conservation District (FC) shall be that flood hazard area as shown on the maps prepared by FEMA. Where the specific one hundred (100) year elevation cannot be determined for this area using the flood hazard boundary maps or the flood insurance rate maps, or other sources of data, such as the U.S. Army Corps of Engineers floodplain Information Reports, U.S. Geological Survey floodprone Quadrangles, etc., then the applicant for the proposed use, development and/or activity shall determine this elevation in accordance with hydrologic and hydraulic engineering techniques.
 - b. Hydrologic and hydraulic analysis 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, analysis, computations, etc. shall be submitted in sufficient detail to allow a thorough technical review by the Township.
 - c. The applicant shall also delineate a floodway area and provide sufficient documentation to demonstrate that this proposed activity, together with all other existing and anticipated development, uses, and activities, will not increase the water surface elevation of the one hundred (100) year flood more than one (1) foot at any point. The engineering principle of equal reduction of conveyance shall be used to make the determination of increases in flood heights.
 - d. For the purposes of this Ordinance, the one hundred (100) year flood elevation shall be used as the basis for regulation. When available, information from other Federal, State and other acceptable sources shall be used to determine the one hundred (100) year elevation, as well as a floodway area, if possible. When no other information is available, the one hundred (100) year elevation shall be determined by using a point on the boundary of the identified floodplain area which is nearest the construction site in question.

In lieu of the above, the Township may require the applicant to determine the elevation with hydrologic and hydraulic engineering techniques. Hydrologic and hydraulic analysis 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, analysis, computations, etc., shall be submitted in sufficient detail to allow a thorough technical review by the Township.

2. Overlay Concept.
 - a. The Floodplain Conservation District described above shall be an overlay to the existing underlying districts as shown on the official Zoning Map, and as such, the provisions for the Floodplain Conservation District shall serve as a supplement to the underlying district provisions.
 - b. Where there happens to be any conflict between the provisions or requirements of any of the Floodplain Conservation Districts and those of any underlying district, the more restrictive provisions shall apply.
3. Floodplain Conservation District Map. The boundaries of the Floodplain Conservation District are established as shown on the Flood Insurance Rate Map of the Township, issued by FEMA, which is declared to be a part of this Ordinance and which shall be kept at the Township offices.
4. District Boundary Change. The delineation of any of the Floodplain Conservation Districts may be revised by the Township, where natural or manmade changes have occurred and/or more detailed studies conducted or undertaken by the U.S. Army Corps of Engineers, River Basin Commission, or other qualified agency or individual documents to the need or possibility for such change. However, prior to any such change, approval must be obtained from FEMA.

G. District Provisions.

1. All uses, activities, and development occurring within any Floodplain Conservation District shall be undertaken only in strict compliance with the provisions of this Ordinance and with all other applicable codes and ordinances such as the Township Building Code, and Subdivision and Land Development Ordinance.
2. Under no circumstances shall any use, activity and/or development adversely affect the capacity of the channels or floodways of any watercourse, drainage ditch, or any other drainage facility or system.
3. Prior to any proposed alteration or relocation of any stream, watercourse, etc., within the municipality, a permit shall be obtained from the PaDEP, Regional Office. Further notification of the proposal shall be given to all affected adjacent municipalities. Copies of such notifications shall be forwarded to both FEMA and the Department of Community and Economic Development.
4. Floodplain Conservation District. Prior to the issuances of any building permit, the Building Permit Officer shall review the application for permit to determine if all other necessary governmental permits required by State and Federal laws have been obtained, such as those required by the Pennsylvania Sewage Facilities Act of 1966, as amended, (35 P.S. §§ 750.1 et seq.); the Dam Safety and Encroachments Act of 1978, as amended, (32 P.S. §§ 693.1 et seq.); the Clean Water Act of 1977, as amended, (33 U.S.C. 1344); and the Pennsylvania Clean Streams Act of 1937, as amended, (35 P.S.

§§ 691.1 et seq.). No permit shall be issued until this determination has been made. All construction, development and substantial improvements shall be prohibited in any area designated as floodway by the applicant or by FEMA.

5. Setback Requirements from Watercourse. No new construction or development shall be located within the area measured fifty (50) feet landward from the top of bank of any watercourse.
6. Within any identified floodplain area, any new construction or substantial improvement of a residential structure shall have the lowest floor (including basement) elevated up to or above the regulatory flood elevation. The design and construction standards and specifications contained in the 2003 IBC (Sec. 1612.4, 1603.1.6 and 3403.1) and in the 2003 IRC (Sec. R323.1.4, R323.2.1, and R323.2.2) and ASCE 24 (Sec. 2.4 and 2.5, Chap. 5) and 34 PA Code (Chapter 405 as amended) shall be utilized.
7. Within any identified floodplain area, any new construction or substantial improvement of a non-residential structure shall have the lowest floor (including basement) elevated up to or above the regulatory flood elevation, or be designed and constructed so that the space enclosed by such structure shall remain either completely or essentially dry during any flood up to that height.

Any non-residential structure, or part thereof, having a lowest floor (including basement) which is not elevated to at least one and one half (1 ½) feet above the one hundred (100) year flood elevation, shall be floodproofed in a completely or essentially dry manner in accordance with the W1 or W2 space classification standards contained in the publication entitled "Flood-Proofing Regulations" published by the U.S. Army Corps of Engineers (June 1972, as amended March 1992) or with some other equivalent standard. All plans and specifications for such floodproofing shall be accompanied by a statement certified by a registered professional engineer or architect which states that the proposed design and methods of construction are in conformance with the above referenced standards.

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

8. Fully and partially enclosed space below the lowest floor (including basement) is prohibited.

H. Use Regulations.

1. By Right Uses. In the Floodplain Conservation District, the following uses and activities are permitted, provided they are in compliance with the provisions of the underlying district and are not prohibited by any other ordinance and provided that they do not require structures, fill, or storage of materials and equipment:

- a. Agricultural uses such as general farming, pasture grazing, outdoor plant nurseries, horticulture, truck farming, forestry, sod farming, and wild crop harvesting.
 - b. Public and private recreational uses and activities such as parks, day camps, picnic grounds, golf courses, boat launching and swimming areas, hiking, and horseback riding trails, wildlife and nature preserves, game farms, fish hatcheries, trap and skeet game ranges, and hunting and fishing areas.
 - c. Accessory residential uses such as yard areas, gardens, play areas, and pervious parking areas.
 - d. Accessory industrial and commercial uses such as yard areas, pervious parking and loading areas, airport landing strips, etc.
2. Special Exception Uses. The following uses and activities may be permitted by special exception when authorized by the Zoning Hearing Board, subject to the requirements of this Section and Article XVII, provided that they are in compliance with the provisions of the underlying district and are not prohibited by any other ordinance:
- a. Utilities and public facilities and improvements such as railroads, streets, bridges, transmission lines, pipelines, water and sewage treatment plants, and other similar or related uses.
 - b. Water-related uses and activities such as docks, piers, etc.
 - c. Extraction of sand, gravel, and other materials.
 - d. Temporary uses such as circuses, carnivals, and similar activities.
3. Uses Specifically Prohibited. Any use or activity not authorized as a permitted use or use by special exception under the terms of subsections 1101.H.1 and 1101.H.2., above, shall be prohibited within the Floodplain Conservation District. In particular, the following activities, whether proposed in conjunction with a permitted use or otherwise, shall not occur in any portion of the Floodplain Conservation District:
- a. Storage of any material which, if inundated, would float or of any flammable or toxic material or any other material which, if inundated, or otherwise released to the stream, would degrade or pollute the stream, or cause damage if swept downstream.
 - b. Storage of, and the construction, enlargement, or expansion of any storage which would be used for the production, storage, or maintenance of a supply of the following toxic chemicals which are dangerous to human or animal life: Acetone, Ammonia, Benzene, Calcium Carbide, Carbon Disulfide, Celluloid, Chlorine, Hydrochloric Acid, Magnesium, Nitric Acid and Oxides of

Nitrogen, Petroleum Products (Gasoline, Fuel Oil, etc), Phosphorous, Potassium, Sodium, Sulphur and Sulphur Products, Pesticides (including Insecticides, Fungicides, and Rodenticides), radioactive Substances, insofar as such substances are not otherwise regulated, and any other dangerous materials or substances regulated by the appropriate Federal or State agencies.

Further, any substantial improvements to an existing structure which will be used for the production or storage of any such materials or substances, or which will be used for any activity requiring the maintenance of a supply more than five hundred fifty (550) gallons or other comparable volume or any amount of radioactive substances of any such materials or substances on the premises, shall be prohibited.

- c. Installation of subsurface sewage disposal areas.
- d. The construction, enlargement, or expansion of hospitals (public or private).
- e. The construction, enlargement or expansion of nursing homes (public or private).
- f. The construction, enlargement or expansion of jails or prisons,
- g. Junkyards.
- h. The construction, enlargement or expansion of manufactured homes or manufactured home subdivisions.
- i. Placement or construction of any fence, or any other matter which may impede, retard or change the direction of flow of water or that will catch or collect debris carried by such water, or that is placed where the natural flow of the stream or flood waters would carry the same downstream to the damage or detriment of either public or private property adjacent to the floodplain.
- j. Alteration or relocation of any watercourse, unless and until the applicant has notified the governing bodies of adjacent municipalities and the Pennsylvania Department of Community and Economic Development, with copies of such notices being sent to FEMA, and has demonstrated to the satisfaction of the Township Engineer that the flood-carrying capacity of the watercourse as altered or relocated is maintained at a level equal to or better than the existing flood-carrying capacity. This requirement shall be in addition to the requirements of the PaDEP pertaining to such alteration or relocation.

I. Design and Construction Standards

The following minimum standards shall apply for all construction and development proposed within any identified floodplain area:

1. Water and Sanitary Sewer Facilities and Systems

- a. All new or replacement water and sanitary sewer facilities and systems shall be located, designed and constructed to minimize or eliminate flood damages and the infiltration of flood waters.
- b. Sanitary sewer facilities and systems shall be designed to prevent the discharge of untreated sewage into flood waters.

2. Placement of Buildings and Structures

All buildings and structures shall be designed, located, and constructed so as to offer the minimum obstruction to the flow of water and shall be designed to have a minimum effect upon the flow and height of flood water.

3. Anchoring

- a. All buildings and structures shall be firmly anchored in accordance with accepted engineering practices to prevent flotation, collapse, or lateral movement.
- b. All air ducts, large pipes, storage tanks, and other similar objects or components located below the Regulatory Flood Elevation shall be securely anchored or affixed to prevent flotation.

4. Floors, Walls and Ceilings

- a. 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.
- b. Plywood used at or below the Regulatory Flood Elevation shall be of a "marine" or "water-resistant" variety.
- c. 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.
- d. Windows, doors, and other components at or below the Regulatory Flood Elevation shall be made of metal or other "water-resistant" material.

5. Paints and Adhesives

- a. Paints and other finishes used at or below the Regulatory Flood Elevation shall be of "marine" or "water-resistant" quality.
- b. Adhesives used at or below the Regulatory Flood Elevation shall be of a "marine" or "water-resistant" variety.
- c. All wooden components (doors, trim, cabinets, etc.) shall be finished with a "marine" or "water-resistant" paint or other finishing material.

6. Electrical Components

- a. Electrical distribution panels shall be at least three (3) feet above the one hundred (100) year flood elevation.
- b. Separate electrical circuits shall serve lower levels and shall be dropped from above.

7. Equipment

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

8. 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.

J. Uniform Construction Code Coordination

The Standards and Specifications contained in 34 PA Code (Chapters 401-405), as amended and not limited to the following provisions shall apply to the above and other sections and subsections of this ordinance, to the extent that they are more restrictive and/or supplement the requirements of this ordinance.

International Building Code (IBC) 2003 or the latest edition thereof: Secs. 801, 1202, 1403, 1603, 1605, 1612, 3402, and Appendix G.

International Residential Building Code (IRC) 2003 or the latest edition thereof: Secs. R104, R105, R109, R323, Appendix AE101, Appendix E and Appendix J.

K. Application Requirements for Special Permits

Applicants for Special Permits shall provide five copies of the following items:

1. A written request including a completed Building Permit Application Form.
2. A small scale map showing the vicinity in which the proposed site is located.
3. 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. topography based upon the National Geodetic Vertical Datum of 1929, showing existing and proposed contours at intervals of two (2) feet;
 - c. all property and lot lines including dimensions, and the size of the site expressed in acres or square feet;
 - d. the location of all existing streets, drives, other accessways, and parking areas, with information concerning widths, pavement types and construction, and elevations;
 - e. the location of any existing bodies of water or watercourses, buildings, structures and other public or private facilities, including railroad tracks and facilities, and any other natural and man made features affecting, or affected by, the proposed activity or development;
 - f. the location of the floodplain boundary line, information and spot elevations concerning the one hundred (100) year flood elevations, and information concerning the flow of water including direction and velocities;
 - g. the location of all proposed buildings, structures, utilities, and any other improvements; and
 - h. any other information which the municipality considers necessary for adequate review of the application.
4. Plans of all proposed buildings, structures and other improvements, clearly and legibly drawn at suitable scale showing the following:
 - a. sufficiently detailed architectural or engineering drawings, including floor plans, sections, and exterior building elevations, as appropriate;
 - b. for any proposed building, the elevation of the lowest floor (including basement) and, as required, the elevation of any other floor;
 - c. complete information concerning flood depths, pressures, velocities, impact and uplift forces, and other factors associated with the one hundred (100) year flood;

- d. detailed information concerning any proposed floodproofing measures;
 - e. cross section drawings for all proposed streets, drives, other accessways, and parking areas, showing all rights-of-way and pavement widths;
 - f. profile drawings for all proposed streets, drives, and vehicular accessways including existing and proposed grades; and
 - g. plans and profiles of all proposed sanitary and storm sewer systems, water supply systems, and any other utilities and facilities.
5. The following data and documentation:
- a. certification from the applicant that the site upon which the activity or development is proposed is an existing separate and single parcel, owned by the applicant or the client he represents;
 - b. certification from a registered professional engineer, architect, or landscape architect that the proposed construction has been adequately designed to protect against damage from the one hundred (100) year flood;
 - c. a statement, certified by a registered professional engineer, architect, landscape architect, or other qualified person which contains a complete and accurate description of the nature and extent of pollution that might possibly occur from the development during the course of a one hundred (100) year flood, including a statement concerning the effects such pollution may have on human life;
 - d. a statement certified by a registered professional engineer, architect, or landscape architect, which contains a complete and accurate description of the effects the proposed development will have on one hundred (100) year flood elevations and flows;
 - e. a statement, certified by a registered professional engineer, architect, or landscape architect, which contains a complete and accurate description of the kinds and amounts of any loose buoyant materials or debris that may possibly exist or be located on the site below the one hundred (100) year flood elevation and the effects such materials and debris may have on one hundred (100) year flood elevations and flows;
 - f. the appropriate component of the Department of Environmental Protection "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;

- h. any other applicable permits such as, but not limited to, a permit for any activity regulated by the Department of Environmental Protections under Section 302 of Act 1978-166; and
- i. an evacuation plan which fully explains the manner in which the site will be safely evacuated before or during the course of a one hundred (100) year flood.

6. Application Review Procedures

Upon receipt of an application for a Special Permit by the Township the following procedures shall apply:

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

7. Special Technical Requirements

- a. In addition to the requirements of this Ordinance, the following minimum requirements shall also apply to any proposed development requiring a Special Permit. If there is any conflict between any of the following requirements and those in this Ordinance or in any other code, ordinance, or regulation, the more restrictive provision shall apply.
- b. No application for a Special Permit shall be approved unless it can be determined that the structure or activity will be located, constructed and maintained in a manner which will:
 - (1) Fully protect the health and safety of the general public and any occupants of the structure. At a minimum, all new structures shall be designed, located, and constructed so that:
 - (a) the structure will survive inundation by waters of the one hundred (100) year flood without any lateral movement or damage to either the structure itself, or to any of its equipment or contents below the one hundred (100) year flood elevation.
 - (b) the elevation of the lowest floor (including basement) will be at least one and one half (1 1/2) feet above the one hundred (100) year flood elevation.
 - (c) the occupants of the structure can remain inside for an indefinite period of time and be safely evacuated at any time during the one hundred (100) year flood.
 - (2) Prevent any significant possibility of pollution, increased flood levels or flows, or debris endangering life and property.
- c. All hydrologic and hydraulic analyses shall be undertaken only by professional engineers or others of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently accepted technical concepts. Studies, analyses, computations, etc. shall be submitted in sufficient detail to allow a thorough technical review by the Township and the Department of Community and Economic Development.

L. Existing Structures in Floodplain Conservation District.

A structure or use of a structure or premises which lawfully existed before the enactment of these provisions, but which is not in conformity with these provisions, may be continued subject to the following conditions:

1. No expansion or enlargement of an existing structure and/or use shall be allowed within any floodway, as determined by FEMA or by the applicant, that would cause any increase in flood heights.
2. Any modification, alteration, reconstruction, or improvement of any kind to an existing structure and/or use, to an extent or amount of fifty (50%) percent or more of its market value, shall constitute a substantial improvement. Any activity constituting a substantial improvement shall be permitted only by special exception.
3. Any modification, alteration, reconstruction, or improvement of any kind to an existing structure and/or use to an extent or amount of less than fifty (50%) percent of its market value, shall be elevated and/or flood-proofed to the greatest extent possible.

M. Special Exceptions in Floodplain Conservation District

Additional factors to be considered:

1. Review Factors. In passing upon applications for special exceptions, the Zoning Hearing Board shall consider all relevant factors and procedures specific in other sections of the Zoning Ordinance, and:
 - a. The danger to life and property due to increased flood heights or velocities caused by encroachments.
 - b. The danger that materials may be swept on to other lands or downstream to the injury of others.
 - c. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.
 - d. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage and the individual owners.
 - e. The importance of the services provided by the proposed facility to the community.
 - f. The requirements of the facility for a waterfront location.
 - g. The availability of alternative locations not subject to flooding for the proposed use.
 - h. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
 - i. The relationship for the proposed use to the comprehensive plan and floodplain management program for the area.

- j. The safety of access to the property in times of flood of ordinary and emergency vehicles.
 - k. The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters expected at the site.
 - l. Such other factors which are relevant to the purposes of this Ordinance.
2. Supplemental Technical Review. The Zoning Hearing Board may refer any application and accompanying documentation pertaining to any request for a special exception to the Township Engineer for technical assistance in evaluating the proposed project in relation to flood heights and velocities, and the adequacy of the plans for protection and other related matters.
3. Conditions for Approving Special Exceptions or Variances. Special exceptions shall only be issued after the Zoning Hearing Board has determined that the granting of such will not result in (a) unacceptable or prohibited increases in flood heights; (b) additional threats to public safety; (c) extraordinary public expense; (d) the creation of nuisances; (e) any fraud or victimization of the public; or (f) any conflict with local laws or ordinances.
- a. No special exception or variance shall be granted for any proposed use, development, or activity within any floodway, as determined by FEMA or by the applicant that will cause any increase in flood heights.
 - b. No application for a special exception or variance shall be approved in any floodplain district unless it can be determined that the structure or activity will be located, constructed and maintained in a manner which will:
 - (1) Fully protect the health and safety of the general public and any occupants of the structure. At a minimum, all new structures shall be designed, located and constructed so that:
 - a) Contents or attendant utilities of any new or substantially improved structure must be elevated at or above the elevation of the one hundred (100) year flood.
 - b) The lowest floor, including basement elevation will be at least one and one-half (1 1/2) feet above the one hundred (100) year flood elevation.
 - c) The occupants of the structure can remain inside for an indefinite period of time and be safely evacuated at any time during the one hundred (100) year flood.

(2) Prevent any significant possibility of pollution, increased flood levels or flows, or debris endangering life and property.

c. All hydrologic and hydraulic analysis 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, analysis, computations, etc., shall be submitted in sufficient detail to allow a thorough technical review by the Township and Pennsylvania Department of Community and Economic Development.

N. Variations within the Floodplain Conservation District. Requests for variances shall be considered by the Zoning Hearing Board in accordance with the following:

1. No variance shall be granted for any construction, development, use or activity within any floodway area that would cause any increase in the one hundred (100) year flood elevation.
2. No variance shall be granted for the activities or uses specifically prohibited by this Ordinance.
3. If it should become necessary to grant any variance or special exception, the applicant is required to comply with all applicable requirements of the National Flood Insurance Program (NFIP) Regulations (60.3 a. and b.) including the requirements for elevation, flood-proofing, and anchoring. The applicant must also comply with any other requirements considered necessary by the Township.
4. In granting any variance, the Zoning Hearing Board shall attach whatever reasonable conditions and safeguards it considers necessary in order to protect the public health, safety, and welfare, and to achieve the objective of this Ordinance.
5. Whenever a variance is granted, the Zoning Hearing Board shall notify the applicant in writing that:
 - a. The granting of the variance may result in increased premium rates for flood insurance.
 - b. Such variance may increase the risks to life and property.
6. In reviewing any request for a variance, the Zoning Hearing Board shall consider, but not be limited to the following:
 - a. That there is good and sufficient cause.
 - b. That failure to grant the variance would result in exceptional hardship to the applicant.

c. Those additional factors contained in Section 1101.O. for Special Exceptions in Floodplain Conservation District.

7. A complete record of all variance requests and related actions shall be maintained by the Zoning Hearing Board. In addition, a report of all variances granted during the year shall be included in the annual report to the Federal Insurance Administration.

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

O. Administration.

A zoning permit shall be required for all construction and development, which includes, but is not limited to, building or other structures, paving, filling, grading, excavation, mining, dredging, or drilling operations.

1. Application Procedures. Application for such a zoning permit shall be made, in writing, to the Building official on forms supplied by the Township. Such application shall contain at least the following:

- a. Name and address of applicant.
- b. Name and address of owner of land on which proposed construction and/or development is to occur.
- c. Name and address of contractor.
- d. Site location.
- e. Brief description of proposed work and estimated cost.
- f. A plan of the site showing the exact size and location of the proposed construction and/or development as well as any existing buildings or structures.
- g. The elevation of the lowest floor, including basement.
- h. The elevation of the one hundred (100) year flood.
- i. The following data and documentation:
 - (1) documentation, certified by a registered professional engineer or architect, to show that the cumulative effect of any proposed development within an AE Area/District, when combined with all other existing and anticipated development, will not increase the elevation of the one hundred (100) year flood more than one (1) foot at any point.

- (2) 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 one hundred (100) year flood.

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

- (3) detailed information needed to determine compliance with Section 1101.1.H.3, Uses Specifically Prohibited, including:
 - (a) the amount, location and purpose of any dangerous materials or substances which are intended to be used, produced, stored or otherwise maintained on site.
 - (b) 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 1101.1.H.3.b during a one hundred (100) year flood.
- (4) the appropriate component of the Department of Environmental Protection's "Planning Module for Land Development".
- (5) where any excavation of grading is proposed, a plan meeting the requirements of the Department of Environmental Protection, to implement and maintain erosion and sedimentation control.

2. Fees. Applications for a zoning permit shall be accompanied by a fee, payable to the Township based on the estimated cost of the proposed construction and/or development as determined by the Zoning Officer.

3. Start of Construction.

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

- b. Time extensions shall be granted only if a written request is submitted by the applicant, which sets forth sufficient and reasonable cause for the Building Permit Officer to approve such a request.
4. Inspection and Revocation. During the construction and/or development period, the Zoning Officer or other authorized official may inspect the premises to determine that the work is progressing in compliance with the information provided on the permit application and with all applicable Township laws and ordinances, or that there has not been a false statement or misrepresentation by any applicant. If the inspection determines that there has been a violation, then the Zoning Officer shall revoke the building permit and report such fact to the Board of Supervisors for whatever action they deem necessary.

SECTION 1102. STEEP SLOPE CONSERVATION OVERLAY DISTRICT

A. Purpose.

In addition to the general goals listed in the Statement of Purpose, Section 101, and Community Development Objectives, Section 106, it is the purpose of this overlay district to:

1. Promote the public health, safety and welfare through the protection of steep slope areas from indiscriminate development.
2. Encourage the retention of open space that is located and so as to preserve the natural contours and rural character of the Township.
3. Permit only those uses of steep slope areas which are compatible with the conservation of natural conditions and which maintain stable soil conditions by:
 - a. Minimizing disturbances to vegetative groundcovers.
 - b. Restricting the re-grading of steep slope areas.
4. Limit soil erosion and the resultant destruction of the land, siltation of streams and damage to adjacent properties.
5. Protect the low-lying areas from flooding by limiting the increase in stormwater runoff caused by grading of slope areas, changes of groundcover, or by the erection of structures.
6. Maintain the ecological integrity and existing habitat of steeply sloped areas, indigenous or native vegetation and wildlife, which could be adversely affected by otherwise permitted disturbances.
7. To allow the continuing replenishment of groundwater resources and the maintenance of springs.

B. Applicability.

These provisions shall apply to all lands within the jurisdiction of Elk Township and defined herein.

C. Compliance.

No structure or land shall hereafter be used and no structure shall be located, relocated, constructed, reconstructed, enlarged or structurally altered, except in full compliance with the terms and provisions of this Article and any other applicable ordinances and regulations which apply to uses within the jurisdiction of the Article.

D. Disclaimer of Liability.

The granting of a zoning permit or approval of a subdivision or land development plan within or near the Steep Slope Conservation District shall not constitute a representation, guarantee or warranty of any kind by the Township of Elk or by any official or employee. The practicability of safety or the proposed use shall create no liability upon Elk Township, its officials or employees. This Ordinance does not imply that areas outside the Steep Slope Conservation District boundaries or land uses permitted within said district will always be totally free from adverse effects of erosion.

It is not intended by this Section to repeal, abrogate or impair any existing easements, covenants or deed restrictions, however, where this Section imposes greater restrictions, the provision of this Section shall prevail. All other ordinances inconsistent with this Section are hereby repealed to the extent of the inconsistency only. Land within the Steep Slope Conservation District shall also be subject to the District Classifications shown on the Zoning Map and any applicable regulations.

E. Establishment of Zoning District.

1. Basis of District. For the purposes of this Ordinance the Steep Slope Conservation District shall include those areas identified as including Precautionary Slopes (15 – 25%) and/or Prohibitive Slopes (>25%)
2. Overlay Concept:
 - a. The Steep Slope Conservation District described above shall be an overlay to the existing underlying districts as shown on the official Zoning Map, and as such, the provisions for the Steep Slope Conservation District shall serve as a supplement to the underlying district provisions.
 - b. Where there happens to be any conflict between the provisions or requirements of any of the Steep Slope Conservation District and those of any underlying district, the more restrictive provisions shall apply.
3. Steep Slope District Map. The boundaries of the Steep Slope Conservation District are established by:

- a. **Rules for Interpretation of Steep Slope Conservation District Boundaries.** An initial interpretation of whether a particular parcel or parcels are included in a Steep Slope Conservation District shall be made by the Zoning Officer and/or Township Engineer, subject to the provisions of subsection H, below. Appeals shall be made to the Zoning Hearing Board.
 - b. **Amendment of Steep Slope Conservation District Overlay.** Insofar as various natural conditions, including the Steep Slope Conservation District as herein defined, may change, or as any other reason doubt arises as to the property location of the boundaries of the district, such change or the dispute concerning the boundaries of the district may be validated or determined preliminarily by the Zoning Officer, as follows:
 - 1) Delineation of the Steep Slope Conservation District boundaries may be modified by the Elk Township Board of Supervisors upon the recommendation of the Zoning Officer, the Township Planning Commission and the validation of other agencies having regulatory or advisory jurisdiction.
 - 2) In the case of alleged change in the district due to natural or other causes, except man-made, the party alleging the changes, other than the Township of Elk, shall submit to the Zoning Officer a detailed on-site survey made by a licensed geologist or soil scientist, pursuant to techniques approved by the Soil Conservation Service, United States Department of Agriculture, showing in detail, the changes alleged to have occurred which remove the land in question from the Steep Slope Conservation District. There shall also be submitted, a detailed on-site survey by a registered professional engineer or surveyor delineating the exact location of the alleged new boundaries of the tract as a result of the claimed change.
4. **Identification of Steep Slope Areas.** The Steep Slope Conservation District consists of two (2) areas which are delineated and defined as follows:
- a. **Precautionary Slope District (15%-25%).** Methodology for computing precautionary slope is as follows:
 - 1) The maximum horizontal distance over which slope may be determined is twenty (20) feet.
 - 2) Precautionary slopes are those of fifteen (15%) to twenty-five (25%) percent slope measured over three (3) or more two (2) foot contour lines measured through an established field survey or photogrammetric measures.
 - 3) Areas of land within fifteen (15%) to twenty-five (25%) percent slope consisting of less than three (3) contour intervals and less than one thousand (1,000) square feet in extent will be

excluded, provided that they do not adjoin or abut larger areas of steeply sloping ground, as defined herein.

- 4) Small areas of less than fifteen (15%) percent slope occurring in the midst of larger areas of steeply sloping ground shall be averaged with the adjoining steeply sloping ground.
- 5) Areas of steeply sloping ground shall be carefully measured and enumerated on the plan with respect to their occurrence in each of the individual lots proposed.

b. Prohibitive Slope District (over 25%). Methodology for computing prohibitive slope is as follows:

- 1) Maximum horizontal distance over which slope may be determined is twenty (20) feet.
- 2) Steep slopes are those of greater than twenty-five (25%) percent slope measured over three (3) or more two (2) foot contour lines measured through an established field survey or photogrammetric measures.
- 3) Areas of land over twenty-five (25%) percent consisting of less than three (3) contour intervals and less than one thousand (1,000) square feet in extent will be excluded, provided that they do not abut or adjoin larger areas of steeply sloping ground, as defined herein.
- 4) Areas of steeply sloping ground shall be carefully measured and enumerated on the plan with respect to their occurrences in each of the individual lots proposed.

F. District Provisions.

All uses, activities, and development occurring within any Steep Slope Conservation District shall be undertaken only in strict compliance with the provisions of this Ordinance and with all other applicable codes and ordinances such as the Township Building Code, and Subdivision and Land Development Ordinance.

G. Use Regulations.

1. By Right Uses. The following uses shall be permitted in the Steep Slope Conservation District so long as such use is in compliance with the base zoning district and all other provisions.

a. Precautionary Slope District (15 – 25 % slope).

- 1) Wildlife sanctuary, woodland preserve, arboretum, recreation areas, including open space associated with cluster development.

- 2) Tree farming, forestry, and other agricultural uses when conducted in conformity with conservation practices, including minimum tillage methods approved by the Soils Conservation Service, or the Chester County Conservation District.
 - 3) Residential development, contingent upon approval of the Board of Supervisors as advised by the Township Engineer, in conformance with the base zoning district regulations and a maximum impervious surface of fifteen (15%) percent of lot area.
 - 4) Yard area of residences within a Precautionary Slope District, so long as the structure is not within twenty-five (25) feet of the Precautionary Slope District.
 - 5) Driveways are not permitted to exceed a sixteen (16%) percent grade, nor result in cut and fills that exceed a three (3) to one (1) ratio.
- b. Prohibitive Slope Districts (over 25 % slope).
- 1) Wildlife sanctuary, woodland preserve, arboretum, recreation areas, including open space associated with cluster development.
 - 2) Yard areas of residences within a Prohibitive Slope Conservation District, so long as the structure is not within fifty (50) feet of the Prohibitive Slope District.
 - 3) Driveways, when there are no practical alternatives as determined by the Township Engineer, are not permitted to exceed a sixteen (16%) percent grade, nor resulting in cut and fills that exceed a three (3) to one (1) ratio.
2. Special Exception Uses. Any of the following uses shall be permitted as a special exception when authorized by the Zoning Hearing Board, subject to the requirements of this Section and Article XVII. Consideration for granting of special exceptions shall include the extent to which the required uses will disrupt the stability of soils and natural vegetation, and contribute to erosion before and after construction.
- a. Sealed public water supply wells that have been approved by all regulatory agencies and conforming to the Subdivision and Land Development Ordinance of Elk Township.
 - b. Sanitary storm sewers, provided that they have been approved by all regulatory agencies and conforming to the Subdivision and Land Development of Elk Township.
 - c. Access roads and driveways suitable for the passage of emergency vehicles in the event of fire or accident. Such roads shall be

constructed only when no viable alternatives as determined by the Township Engineer, for emergency access exists and so long as the terms of the Elk Township Land Development Ordinance have been complied with and approval from all regulatory agencies has been secured.

3. Prohibited Uses. The erection of buildings or streets and the installation of septic tanks or septic systems on land sloping greater than twenty-five (25%) percent shall be prohibited.

H. **Standards.**

1. The following standards are applicable to all uses within the Steep Slope Conservation District.
 - a. All grading shall be minimized and no grading shall be undertaken within any area of the Steep Slope Conservation District, except in conjunction with a use permitted under the terms of this Ordinance.
 - b. Finished slopes of all cuts and fills shall not exceed thirty-three (33%) percent, unless the applicant can demonstrate that steeper slopes can be stabilized and maintained adequately.
2. Special Exception Standards. Special exception applications affecting land in the Steep Slope Conservation District, as herein defined, will be granted only after consideration of the following conditions:
 - a. That there is no danger to life or property due to the construction activity or the aftermath thereof, that takes place within the Steep Slope Conservation District, caused by the permitting of such special exception.
 - b. That the proposed use is not susceptible to any hazards associated with steep slopes, including rock slides, land slide, or accelerated erosion.
 - c. That safe access will be available in case of emergency.
3. Variance Standards. No variance shall be granted for construction, development, use or activity within any Steep Slope Conservation District that would cause any increase in erosion, potential for land slide, or runoff contributing to flooding.

I. **Application Procedures.**

1. Before a permit is issued for any construction or land disturbance activity within or affecting the Steep Slope Conservation District, the following material, in full or in pertinent parts, shall be submitted for review to the Township Engineer and Township Zoning Officer.

- a. An earthmoving plan of the property which indicates existing grades with contour lines at two (2) foot intervals and proposed grades within the area of any proposed activity, disturbance of construction.
 - b. A site plan indicating existing and proposed structures, other impervious surfaces, storm drainage facilities and retaining walls. The site plan shall also locate and identify existing vegetation and groundcover within areas of prohibitive or precautionary slopes, as well as proposed material to be installed
 - c. Architectural plans, elevations, and sections.
 - d. A statement, signed and sealed by a registered architect or engineer, explaining the building methods to be used in overcoming foundation and other structural problems created by slope conditions, preserving the natural watersheds and preventing soil erosion and excessive surface water runoff to neighboring properties and/or streets.
 - e. A statement, signed by the owner or future occupant at the time of subdivision, land development, or building permit application, that there is a full understanding of any difficulties associated with access stemming and no conditional use shall be granted by the Board of Supervisors without the Township Engineer's review of this material and his recommendations thereon.
2. **Burden of Proof.** In all proceedings by the Zoning Hearing Board under this Ordinance, including application for special exception and variance from the provisions of this Ordinance, the burden of proof shall be on the applicant to show that the use required will be in general conformity with the objectives of this Ordinance, that property safeguards will be observed and that the use will not be detrimental to the public health, safety, and welfare.

SECTION 1103. RESOURCE CONSERVATION OVERLAY DISTRICT

The following regulations apply to the preservation of Watercourses, Riparian Buffers, Wetlands, Wetlands Margins, and Woodlands.

A. Purpose.

In addition to the general goals listed in the Statement of Purpose, Section 101 and Community Development Objectives, Section 106, it is the purpose of this overlay district to protect the public health, safety, and welfare by minimizing adverse environmental impacts caused by certain types of land uses and development activity. The provisions of this Section are intended to define and delineate selected natural resources within the Township and establish resource protection standards to mitigate potential public hazards associated with land use activity.

B. Applicability.

These provisions shall apply to all lands within the jurisdiction of Elk Township, as herein defined. These provisions shall overlay and supplement the provisions of the underlying districts, as shown on the zoning map. All other provisions of all other Articles of this Ordinance and all other ordinances of the Township shall remain in full force.

1. In the event that the provisions of the underlying zoning district and the provisions of this Section are in conflict, the more restrictive provision shall apply.
2. In the event that two (2) or more resources identified in this Section overlap on the map, the resource with the most restrictive standards shall apply to the area of overlap.

C. Compliance.

No structure or land shall hereafter be used, and no structure shall be located, relocated, constructed, reconstructed, enlarged or structurally altered, and no permits shall be issued except in full compliance with the terms and provisions of this Section and any other applicable ordinances and regulations which apply to uses as specified within this Section.

D. Disclaimer of Liability.

The granting of a zoning permit or approval of a subdivision or land development plan within or near this district, as defined within this Section, shall not constitute a representation, guarantee or warranty of any kind by the Township of Elk or by any official or employee. The practicality or safety of the proposed use shall create no liability upon Elk Township, its officials or employees.

E. Protection Standards.

1. Watercourses.

a. Definition. A watercourse is a stream, creek, run, ditch, channel or other body of running water with a defined bed and banks in which water flows in a definite direction or course, either continuously or intermittently, as depicted by the U.S.G.S. Quadrangle Maps (the most current edition).

b. Resource Protection Standards.

- 1) Watercourses shall not be regraded, filled, piped, diverted, built upon, or otherwise altered, except where design approval is obtained from the Township, and if required, the Pennsylvania Department of Environmental Protection.
- 2) No structure or impervious surface may be located within fifty (50) feet of the bank of a watercourse, provided such setback is

consistent with the requirements for the designated floodplain, except for approved stream crossings.

- c. Delineation. The applicant shall delineate watercourses on the site in accordance with the provisions of subsection F below. The applicant shall delineate watercourses which are on the site, in accordance with subsection F below.

2. Riparian Buffers.

- a. Definition. A riparian buffer is an area of trees and other vegetation adjacent to a watercourse that forms a transition area between the aquatic and terrestrial environment. The riparian buffer is designed to intercept runoff from upland sources for the purpose of mitigating the effects of nutrients, sediment, organic matter, pesticides or other pollutants prior to entry into surface waters. For the purposes of this Ordinance, the riparian buffer shall be divided into two Zones:
- b. Zone One: Inner Riparian Buffer. This zone begins at each edge of an identified watercourse and occupies a margin of land with a minimum width of twenty-five (25) feet measured horizontally on a line perpendicular to the edge of the water at bankful flow. Where very steep slopes (+25%) are located within twenty-five (25) feet of a watercourse, Zone One shall extend the entire distance of this sloped area.
- c. Zone Two: Outer Riparian Buffer. This zone begins at the outer edge of Zone One and occupies a minimum width of fifty (50) feet in addition to Zone One. In cases where Zone One extends beyond twenty-five (25) feet due to the presence of very steep slopes, the width of Zone Two shall be adjusted so that the total riparian buffer width equals a seventy-five (75) foot maximum.
- d. Benefits of Riparian Buffers. The benefits of riparian buffers include the following:
 - 1) Reduction of the amount of nutrients, sediment, organic matter, pesticides and other harmful substances that reach watercourses and wetlands from adjacent land uses.
 - 2) The consumption of nitrogen and denitrification in surface and groundwater and the trapping of phosphorus-laden sediment and other pollutants from adjacent land uses.
 - 3) Provision of stream bank stability which protects fish habitat and controls sediment and erosion.
- e. Resource Protection Standards. The following standards are designed to foster water resource protection benefits provided by riparian buffer areas:

- 1) There shall be a fifty (50) foot riparian buffer consisting of a dense groundcover, including turf grass, shrubs or trees along the delineated edge of a wetland or from the top of the stream banks of a watercourse.
 - 2) This area shall not be disturbed, cleared, regraded, filled, built upon or otherwise altered, except for restoration of the riparian buffer to its natural state, including activities such as the selective removal of non-native, invasive species of vegetation, or the replanting of appropriate species as specified by a landscape architect or similarly qualified professional.
- f. **Delineation.** The applicant shall delineate riparian buffers on the site in accordance with the provisions of subsection F below.

3. **Wetlands.**

- a. **Definition.** Those areas that are inundated 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. More specifically, any area meeting the official wetland definition of the U.S. Army Corps of Engineers and the PaDEP. Where a discrepancy exists between the wetland definitions of the U.S. Army Corps of Engineers and the PaDEP, the more restrictive definition shall apply.
- b. **Resource Protection Standards.**
 - 1) Any applicant proposing a use, activity, or improvement that would entail the regrading or placement of fill in wetlands shall provide the Township with proof that the Pennsylvania Department of Natural Resources (Bureau of Dams and Waterway Safety and Bureau of Water Quality Management) and the U.S. Army Corps of Engineers have been contacted to determine that the applicable of State and federal wetland regulations have been met.
 - 2) Wetlands shall not be regraded, filled, piped, diverted, channeled, built upon, or otherwise altered or disturbed except where state or federal permits have been obtained.
- c. **Delineation.** The applicant shall delineate wetlands on the site in accordance with the provisions of subsection F below.
- d. **Disturbance.** In any case, an owner may not disturb any wetlands without the approval of the PaDEP and the Army Corps of Engineers.

4. Wetland Margin.

- a. Resource Protection Standards. To the greatest extent possible, the wetland margin shall not be disturbed, regraded, filled, built upon, or otherwise altered. If disturbance is unavoidable, a minimum thirty (30) foot buffer around the wetland shall be preserved and planted with appropriate wetland vegetation, as determined and specified by a landscape architect or similarly qualified professional. In addition, the Pennsylvania Department of Environmental Protection regulations under Chapter 105 concerning activities in wetland margins, shall be met.
- b. Delineation. The applicant shall delineate wetland margins on the site in accordance with the provisions of subsection F below.

5. Woodlands.

- a. Definition. Woodlands, for purposes of this Ordinance, Specifically, woodlands consist of one-quarter (1/4) acre or more of continuous wooded land where the largest trees measure at least six (6) inches diameter at breast height. The woodland shall be measured from the drip line of the outer trees. Woodlands are also a grove of trees forming one canopy where ten (10) or more trees measure at least six (6) inches at diameter at breast height. Additional definitions associated with woodlands are as follows:
 - 1) Tree Harvesting Operation. The uprooting or removal of more than four (4) trees per acre from any lot for the purpose of allowing or encouraging the natural regeneration or preservation of a tree stand on a lot which has a gross area prior to any subdivision or land development of more than three (3) acres and which is undertaken in compliance with an approved woodland management plan. This definition does not apply to the practice of removing dead or diseased trees from a woodland. This definition does not apply to the removal of trees for the purpose of development, even if pursuant to a woodlands management plan.
 - 2) Woodland Management Plan. A description, by means of text and maps, of proposed actions involving removal of trees from a tract of land. Such plan shall have been prepared by a licensed forester with demonstrable expertise in forest management, and shall document measures to be taken to protect water quality, minimize impacts from skid trails and logging roads, land areas, and the tree removal process and ensure site restoration. A woodland management plan is not required to remove dead or diseased trees from a woodland.
- b. Resource Protection Standards.

- 1) No trees shall be removed and no clear cutting of woodlands, as defined herein, shall be undertaken for any use other than agriculture, unless in compliance with the provisions contained herein and with a woodlands management plan as approved by the Zoning Officer. This is not intended to prevent the removal of dead or diseased trees from a woodland.
 - 2) Where approved in compliance with a subdivision and land development plan and a required woodland management plan, no more than fifty (50) percent of woodlands shall be regraded, cleared, built upon, or otherwise altered for the purpose of construction, or as in compliance with the required woodland management plan. This percentage shall apply on a per lot basis.
 - 3) Each building or structure shall be constructed in such a manner as to require the least alteration of the woodland. Clear cutting shall be avoided and trees shall be selectively removed. Woodland alterations, as identified by the Township, that could threaten the growth of the remaining trees, shall be avoided.
 - 4) Where possible, woodlands and other natural vegetation which remain undisturbed shall interconnect with woodlands or wooded areas of adjacent properties to preserve continuous woodland corridors and allow for the normal movement, dispersion and migration of wildlife.
- c. Delineation. The applicant shall delineate woodlands on the site in accordance with the provisions of subsection F below.
4. Tree Protection Zone.
- a. Definition. An area that is radial to the trunk of a tree in which no construction activity shall occur. The tree protection zone shall be fifteen (15) feet from the trunk of the tree to be retained, or the distance from the trunk of the tree to two (2) feet beyond the dripline, whichever is greater. Where there is a group of trees or woodlands, the tree protection zone shall be the aggregate of the protection zones for the individual trees.
 - b. Resource Protection Standards. In order to prevent injury to those trees which have been designated for protection, a tree protection zone shall be established where trees, or an area of woodlands as defined herein, on the site are to be retained. In this zone, the following standards shall apply:
 - 1) Prior to construction, trees within a delineated tree protection zone shall be clearly marked at breast height. This marking shall be maintained until all construction and other work has been completed.

- 2) During construction, trees within a tree protection zone shall be clearly delineated with a proper barrier and signage (such as: metal stakes and wire) to the limits of the tree protection zone to ensure that there is no encroachment and/or compaction of soil and roots within this area by:
 - a) Change of grade;
 - b) Excavations or trenching;
 - c) Storage (either temporary or permanent) of building materials, topsoil, motor vehicles or construction equipment; or
 - d) No toxic materials shall be stored within one hundred (100) feet of a tree protection zone, including petroleum based and derived products.
- 3) Sediment, retention and detention basins shall not be located within or discharged into a tree protection zone.
- 4) Trees which are scheduled to be removed may be left standing adjacent to the trunks of trees within the tree protection zone to further protect them from the limits of grading.
- 5) When roots from trees within a tree protection zone must be trimmed as a result of disturbance outside of the tree protection zone, they shall be cut by a backhoe or similar equipment aligned radially to the tree. This method reduces the lateral movement of the remaining roots, reducing the possibility of damage to the intertwined roots of surrounding trees and other vegetation.
 - a) Within four (4) hours of any severance of roots, all roots that have been exposed and/or damaged shall be trimmed cleanly and covered temporarily with peat moss, moist burlap or other biodegradable material to keep them moist and protected from disease until permanent cover is installed. Permanent cover shall be installed within seventy-two (72) hours of the initial severance of roots.
 - b) Tree stumps which are located within ten (10) feet of a tree protection zone shall be removed by means of a stump grinder or similar device which will minimize the effect on existing, intertwined roots within a tree protection zone. A stump shall be ground and removed to a point at least six (6) inches below existing ground level.

6) Trees that are to be removed shall not be felled, pushed or pulled into a tree protection zone.

c. Delineation. In association with existing woodlands, applicants shall delineate tree protection zones on the site, in accordance the standards herein and with the provisions of subsection F below.

F. Application of Standards.

1. Plan Information. To meet the resource protection standards of this Section, the following information shall be submitted by the applicant. Where applicable, such information shall be included with a preliminary plan, as required in the Subdivision and Land Development Ordinance and shall be consistent with the informational requirements of the Subdivision and Land Development Ordinance.

a. A site plan which identifies the limits of all natural resources on the site, including tree protection zones, if applicable, and the proposed use of the site, including existing or proposed structures.

b. All encroachments and disturbances necessary to establish the proposed use on the site, including a grading plan showing existing and proposed contours.

c. The minimum buildable area(s) and areas reserved for on-lot sewage systems, as described subsection 2 below.

d. Calculations indicating the area of the site with natural resources and the area of natural resources that would be disturbed or encroached upon. The calculation shall be shown on the plan, as indicated in the following table:

**Figure 9-A
Proposed Disturbance Table**

Protected Resource (in square feet)	A Amount of Land in Protected Resource	B Maximum Disturbance Allowance	C Maximum Amount of Disturbance Allowed (AxB)	D Proposed Disturbance
Floodplain		0.0		
Watercourses		0.0		
Wetlands		0.0		
Wetlands margin		0.0		
Woodlands		.50		

(The figures in Column D must be less than or equal to the figures in Column C.)

2. Minimum Buildable Area.

- a. Building Area. The purpose of the identification of the minimum buildable area is to ensure sufficient area is provided for the general location of the building, driveway, patio, other important improvements and site alterations while meeting the natural resource protection standards and minimum setback requirements of this Ordinance. The applicant shall delineate on the plan a buildable area sufficient in size to accommodate proposed site improvements and which complies with the maximum disturbance requirements, as specified herein and any other applicable ordinances and codes.
 - b. On-Lot Sewage Facilities Area. For uses with individual on-lot sewage systems, an area in addition to the minimum buildable area specified shall be identified for the location of the sewage system. The size of the area shall be subject to the review and approval of the Chester County Health Department and/or the Pennsylvania Department of Environmental Protection. Where applicable, a reserve or replacement area shall also be identified. Such areas shall not include the portion of those environmentally sensitive areas that may not be developed or intruded upon, as specified in this Article.
3. Continued Protection of Identified Natural Resources.
- a. Individual Lots. Maintenance responsibilities associated with the resources indicated shall be clearly stated in the individual deeds. The restrictions shall provide for the continuance of the resource protection areas, in accordance with the provisions of this Ordinance.
 - b. Resources in Common. For resource protection areas held in common, the provisions associated with common open space shall apply. The Township may require additional restrictions, as it deems necessary and as provided for within this Ordinance. The party or organization responsible for the maintenance of the resources shall be clearly identified in the deed and maintenance shall occur in accordance with an approved management plan.

**ARTICLE XII
SUPPLEMENTAL REGULATIONS**

SECTION 1200. APPLICABILITY.

The provisions of this Article represent regulations and standards that are common to all zoning districts. Unless exempted by applicable provisions or specified limitations, the following supplemental regulations shall apply to all by right, special exception, or conditional uses. In the event that the provisions of this Article conflict with other provisions of the Ordinance, the more restrictive provisions shall apply.

SECTION 1201. ACCESSORY USE REGULATIONS.

A. General Regulations.

Accessory uses shall be:

1. Incidental and subordinate to the principle use; and
2. Located on the same tract or lot as the principal use.

And

3. Accessory uses shall have a minimum setback of not less than ten (10) feet from the lot lines except for an active accessory uses such as tennis courts or swimming pools or for accessory buildings or uses larger than one hundred and fifty (150) square feet where the minimum set back shall be fifteen (15) feet.

B. Permitted Uses.

1. Agricultural Accessory Uses. The following uses shall be permitted when incidental and subordinate to an agricultural use and when located on the same lot or tract as the principal use:
 - a. Storage of farm products and farm machinery.
 - b. Barns, stables, silos sheltering livestock, poultry, and farm products.
 - c. Preparation of agricultural products.
 - d. Garages and outbuildings.
 - e. Signs identifying the name of a farm in accordance with the provisions of Article XIV.
 - f. Accessory Residential Uses, as per Section 2 below.

- g. Sale of Agricultural Products. The display and sale of agricultural products shall be an accessory use permitted from a permanent building or from a temporary stand dismantled and removed at the end of the growing season provided that:
- 1) Any building, stand, sales, or display shall be at least thirty (30) feet from any street line, and shall be at least fifty (50) feet from a side or rear yard lot line abutting a residential use or district. Such building or stand shall be no more than one-thousand five hundred (1,500) square feet in size;
 - 2) A minimum of three (3) parking spaces, or one (1) space for each three hundred (300) square feet of building total floor area, whichever shall be greater, shall be provided behind the street right-of-way line; and
 - 3) Signs associated with the sale of farm products shall be in accordance with Article XIV.
- h. Secondary Farm Business. This accessory use would allow for a secondary source of income for a resident farmer, so as to promote the continuation of existing agricultural uses and the Township agricultural character, and shall be in accordance with the following:
- 1) A maximum of fifteen (15) employees shall be permitted in conjunction with the secondary farm business in addition to family members or farm laborers employed in the primary farm business.
 - 2) Secondary farm family businesses may include, but are not limited to the following:
 - a) Veterinary offices which primarily serve farm animals, stables, and supplies.
 - b) Manufacturing and sale of crafts.
 - c) Manufacturing of household articles, such as chairs, cabinets, clocks, and similar carpentry type articles for use in the home.
 - d) Sales of seeds, chemicals, and fertilizers.
 - e) Facilities for the sales, repair, and service of agriculturally related equipment and supplies.
 - f) Custom work.
 - g) Cattle and grain hauling.
 - h) Grain mills or portable grinding mills.
 - i) Blacksmith shop.

j) Other similar uses to those listed above.

2. Residential Accessory Uses, Buildings, or Structures. The following uses shall be permitted only when: incidental and subordinate to a residential use, located in the rear or side yard of the lot, located no further forward than the front line of the principal building, less than fifteen (15) feet in height, the accessory use is not commercial, and it is only for the use of residents of the dwelling:

a. Garage or parking area for the parking of passenger automobiles including trucks and vans weighing less than ten thousand (10,000) pounds.

b. Structures such as shelter for household pets, storage sheds, bathhouses, gazebos, decks, patios, tennis courts, and noncommercial greenhouses.

c. Non-commercial swimming pool subject to the following:

1) Non-commercial swimming pool, including both above-ground or in-ground pools, designed with a depth of two (2) feet or more shall be for use of residents and their guests and shall not be operated commercially as to charge a fee for its use;

2) A permit shall be required to locate and construct a noncommercial swimming pool;

3) Swimming pools and buildings related to the pool may be located in the rear or side yard of the lot. Any paved areas or decks related to the pool shall be no closer than five (5) feet to a lot line;

4) Outdoor lighting, if any, shall be shielded and/or reflected away from adjacent properties so that the lighting is neither directed nor reflected upon adjacent properties;

5) Non-commercial swimming pools shall be completely enclosed by a permanent fence of durable material at least four (4) feet in height which shall be maintained in a good, safe condition. The fence shall be erected prior to the filling of the swimming pool and shall have self-closing and self-latching access gates that shall open away from the pool and where the release mechanism is located on the pool side of the gate. The fence and access gates shall be constructed so as not to have any opening exceed four (4) square inches in any direction. This fencing provision shall not apply to a swimming pool four (4) feet or more above grade when equipped with removable steps or ladders, provided that said steps or ladders shall be removed when the pool is not in use;

6) At the time of application for a building permit, it shall be demonstrated that the pool contains a filtration system, and that drainage of the pool is adequate and will not interfere with the water supply system, with existing sewage facilities, with public streets, and shall not drain into the neighboring property; and

- 7) Freestanding independent hot tubs and those associated with a noncommercial swimming pool shall be covered and latched when not in use.
- d. Garage or yard sales.
 - 1) Such temporary uses shall last no more than three (3) consecutive days, and shall be limited to not more than four (4) times within one (1) calendar year. There shall be at least thirty (30) days between each occurrence.
 - 2) Signs advertising garage or yard sales shall be limited to four (4) square feet in size, and shall be posted no more than two (2) days prior to the sale and removed by the day after the final day of the sale. No more than four (4) off-premise signs shall be placed, and the location of off-premises signs shall be approved by the property owners of the properties on which they are placed.
 - 3) No more than one (1) vehicle for sale or show shall be displayed on a residential lot.
 - e. Radio and television antenna, or dish antenna in accordance with the provisions of Section 1203.
 - f. Fences or walls in accordance with the provisions of Article XIII.
 - g. Signs associated with the occupants of the dwelling in accordance with the provisions of Article XIV.
 - h. Uses designed to serve the residents of a residential development, including areas for washing machines and dryers, lockers or storage areas, recreational facilities and lounges.
 - i. Trailers or recreational vehicles designed for use as vacation travel trailers placed, stored or parked on an occupants or owners lot shall not be used at any time during such placement for sleeping or living quarters or for any accessory use in conjunction with the principal use of the lot.
 - j. Parking and storage of commercial vehicles having more than two (2) axles or weighing more than ten thousand (10,000) pounds shall be prohibited on any residential lot or residential district. Nightly, outdoor parking or storage of commercial vehicles of lesser size shall be limited to one (1) vehicle per lot within the lot boundaries, and one (1) additional commercial vehicle shall be permitted if parked inside in an enclosed structure or in a parking space screened from view of adjacent residential uses. In no case shall the engine or an auxiliary engine (eg. Compressor, generator, etc.) of a commercial vehicle parked outside be permitted to operate between the hours of 9:00 pm and 7:00 am where adjacent to a residential use or district.

- k. Minor home occupation in accordance with Section 1215.
- l. Major home occupation in accordance with Section 1215.
- m. Supplemental Dwelling Unit. This accessory use allows a smaller secondary dwelling unit within an existing single-family detached dwelling or accessory building on the same lot as the principal dwelling where the principal use of the lot is residential and the appearance of the principal dwelling remains that of a single family detached dwelling to the greatest extent possible. Where the principal use of the lot is agricultural, the standards of Section 1202 shall govern additional dwelling units.. The purpose is to protect and allow efficient use of the existing housing stock, and to provide an opportunity to allow housing to meet the specific housing needs of Township families and allow the owners to remain residents of that dwelling and the Township.
 - 1) A supplemental dwelling unit shall be permitted only in single-family detached dwellings and their accessory buildings.
 - 2) The supplemental dwelling unit shall remain accessory and secondary to the principal single-family detached dwelling.
 - 3) The area and bulk regulations of the zoning district shall apply to the lot on which the supplemental dwelling unit is located.
 - 4) No more than one (1) supplemental dwelling unit shall be allowed on each lot.
 - 5) The supplemental dwelling unit shall be permitted only in one of the following configurations:
 - a) Located in the existing principal dwelling and may be a conversion of an existing part of the building, such as an attached garage or upper story of the dwelling, and designed so that to the greatest extent possible, the appearance of the principal dwelling remains that of a single-family detached dwelling. Entrances to the supplemental dwelling unit shall be located to the rear or side of the building.
 - b) Contained within an accessory building on the same lot as the principal dwelling.
 - c) Additions of no greater than fifteen (15) percent of the of the gross floor area of the existing dwelling or accessory building shall be permitted in conjunction with the creation of a supplemental dwelling unit in order to facilitate more logical design or layout or as may be needed for enclosed stairwells or to meet Township and state safety codes. Additions shall comply

with all applicable setback requirements in the district in which the use is located.

- 6) Either the principal single-family dwelling or the supplemental dwelling unit shall be occupied by the bona fide owner of the property on which both dwelling units are located.
 - 7) The supplemental dwelling unit shall be no more than thirty (30) percent of the principal dwelling's total floor area, and shall have a minimum floor area of four hundred (400) square feet.
 - 8) Two (2) off street parking spaces shall be provided for a supplemental dwelling unit in addition to the parking requirements for the principal use, in accordance with Section 1304.
3. Commercial or Industrial Accessory Uses, Buildings, or Structures. The following uses shall be permitted when incidental and subordinate to a commercial or industrial use:
- a. Off-street parking facilities in accordance with the provisions of Section 1304.
 - b. Signage in accordance with the provisions of Article XIV.
 - c. Outdoor Storage or Display of materials in accordance with the provisions of Section 1302.G.
 - d. Fences or walls in accordance with the provisions of Section 1302.A.
 - e. Radio and television antenna, or dish antenna in accordance with the provisions of Section 1203.
 - f. Flagpoles.
4. Institutional Accessory Uses, Building, or Structures. The following uses shall be permitted when incidental and subordinate to an institutional use:
- a. Off-street parking facilities in accordance with the provisions of Section 1304.
 - b. Signage in accordance with the provisions of Article XIV.
 - c. Outdoor Storage or Display of materials in accordance with the provisions of 1302.G.
 - d. Fences or walls in accordance with the provisions of Section 1302.A.
 - e. Radio and television antenna, or antenna in accordance with the provisions of Section 1203.
 - f. Flagpoles.

5. Temporary Structure, Building, or Use. Temporary Structures, Buildings, or Use shall be subject to the following:
- a. A temporary permit may be issued for structures or uses necessary during construction or other special circumstances of a nonrecurring nature, subject to the Township permitting process.
 - b. A temporary structure or use could include, but is not limited to, offices for contractors, temporary residential uses, political campaign headquarters, temporary structures for business operations which have been displaced from the principal building due to damage, or other similar uses.
 - c. The time period of the initial permit shall be six (6) months. The permit may be renewed for three (3) months if the applicant can demonstrate reasonable progress towards the completion of the project necessitating the temporary structure, building, or use. A temporary use and occupancy permit shall not be required unless such uses remain in the same location for more than two (2) consecutive days.
 - d. It shall be the responsibility of the applicant to demonstrate the need for a temporary use and occupancy permit.
 - e. Such structure, building, or use shall be removed completely within fourteen (14) days of the expiration of the permit without cost to the Township.
6. Temporary Community Event. A temporary activity could include, but is not limited to, special events, flea markets, public exhibitions, municipal activities, non-profit events, street fairs, festivals, fund raisers, and similar organizational activities, subject to the following:
- a. Such temporary uses shall be limited to not more than seven (7) consecutive days per event, and shall be limited to not more than four (4) events in a calendar year for each organization. There shall be a thirty (30) day period between each event.
 - b. Signs advertising a temporary community event shall be subject to the provisions of Article XIV. Additionally, such signs shall be limited to sixteen (16) square feet in size or may be a banner sign, and shall be posted no more than fourteen (14) days prior to the first day of the event and shall be removed by the day after the final day of the event. No more than four (4) off-premise signs shall be placed and the location of these signs shall be approved by the property owners of the properties on which they are placed.
 - c. The applicant for the use shall provide the Township with plans to ensure adequate parking, emergency access, road access, sanitary facilities, refuse collection, noise control, and clean-up after the event. The Township Planning Commission shall make a recommendation to the Township as to whether the proposed plans are adequate.

SECTION 1202. AGRICULTURAL LAND USES.

Agricultural uses and associated uses shall be subject to the following regulations:

A. General Regulations.

1. Gardening, incidental to residential use, shall be permitted in any district without restriction in regard to lot area.
2. Any structures used for the shelter or housing of livestock or poultry shall be located not less than one hundred (100) feet from any lot line. Except as provided for dwellings or for riding rings, no other farm building or structure shall be constructed closer than fifty (50) feet to any abutting property or public right-of-way. Where setbacks provided in the applicable district differ from fifty (50) feet, the greater dimension shall apply.
3. Silos and bulk bins shall be exempt from the maximum building height limit when attached to an existing structure or located such that the distance from the base of the barn, silo, or bulk bin to both the nearest property line and the nearest street right-of-way line is no less than the height of said silo, or bulk bin. In no case shall any building exceed eighty-five (85) feet in height.
4. The storage or stock-piling of manure or other odor or dust producing substance shall not be permitted within seventy-five (75) feet of any abutting property or public right-of-way, nor closer than one hundred (100) feet to any wells, springs, sinkholes, on slopes adjacent to any ponds and streams, or within any swale or drainageway.
5. Lots shall be graded so that animal wastes are confined, stored, or disposed of within the lot on which they originate.
6. All grazing and pasture areas where animals are kept shall be fenced.

B. Non-Intensive Agricultural Uses. Non-intensive agricultural uses and customary buildings associated with non-intensive agricultural uses shall be in accordance with the following standards:

1. The minimum lot area for non-intensive agricultural uses shall be ten (10) acres.
2. No slaughtering, processing, or production operations for commercial purposes shall be permitted.
3. Commercial piggeries shall not be permitted as part of a non-intensive agricultural use.

C. Intensive Agricultural Uses. Intensive agricultural uses and customary buildings associated with intensive agricultural uses shall be in accordance with the following standards:

1. The minimum lot area for intensive agricultural uses shall be fifteen (15) acres in all districts, with the exception of the Agricultural Preservation District where the minimum lot size for intensive agricultural uses is ten (10) acres.

2. Residential uses, adjacent to an intensive agricultural use including agricultural buildings or structures housing mushrooms, poultry, hogs, or other livestock; accessory mushroom composting; feed lots, or other odor or dust producing activities, shall be located a minimum of one hundred (100) feet from any adjacent intensive agricultural use. Intensive Agricultural uses shall be set back a minimum of one hundred (100) feet from any floodplain or watercourse.
- D. Accessory Agricultural Dwelling Units. Additional agricultural dwelling units shall be permitted by right uses in all districts and where agriculture is the principal use of a lot in accordance with the requirements of this Section.
1. Accessory agricultural dwellings shall conform to the area and bulk standards of the district in which the lot is located.
 2. Adequate on-lot sewage and water facilities and associated minimum isolation distances as reviewed and approved by the Chester County Health Department shall be provided.
 3. The applicant shall demonstrate how safe and efficient access shall be provided to each dwelling from an existing public road by emergency services equipment.
 4. Accessory agricultural dwelling units shall be attached to the principal dwelling, created by conversion of an existing accessory structure, or constructed or placed as a separate detached dwelling unit.
 5. Accessory agricultural dwelling units attached to the principal dwelling or created by conversion of an existing accessory building on the same farm tract as the principal dwelling shall comply with the following.
 - a. The accessory dwelling unit shall only be used by family members or farm workers of the associated agricultural use.
 - b. A maximum of one (1) attached accessory dwelling unit or accessory dwelling unit contained in an existing accessory building shall be permitted.
 - c. The accessory dwelling unit shall remain accessory and secondary to the principal single family detached dwelling.
 - d. The accessory dwelling unit shall be permitted in the existing principal single family dwelling and may be a conversion of an existing part of the building, such as an attached garage or upper story of the dwelling, and designed so that to the greatest extent possible the appearance of the principal dwelling remains that of a single family detached dwelling.
 - e. Additions of no greater than fifty (50) percent of the gross floor area of the existing principal dwelling shall be permitted in conjunction with the creation of an attached accessory agricultural dwelling unit. Additions shall comply with all applicable setback requirements in the district in which the use is located.

- f. Either the principal single family dwelling or the accessory agricultural dwelling unit shall be occupied by the bona fide owner of the property on which both dwelling units are located.
 - g. Two (2) off street parking spaces shall be provided for an attached accessory agricultural dwelling unit in addition to the parking requirements for the principal use, in accordance with the provisions of Section 1304.
6. Accessory agricultural dwelling units constructed or placed to serve as separate detached dwelling units shall comply with the following
- a. The farm tract at the time of application for an accessory dwelling unit shall have a minimum area of thirty (30) contiguous acres, and shall be owned or occupied by a resident farmer.
 - b. A maximum of two (2) detached accessory agricultural dwelling buildings not created by conversion of an existing accessory building shall be permitted on a qualifying farm tract without the need for subdivision, in accordance with the following:
 - 30 – 50 acre farm tract – one (1) additional detached accessory agricultural dwelling unit
 - 50+ acre farm tract – two (2) additional detached accessory agricultural dwelling units
 - c. Accessory agricultural dwelling units shall be separated from each other and the principal dwelling in such a way as to be capable of subdivision.
 - d. There shall be a restriction included within the deed to the affected property which states that this Section of the Township Zoning Ordinance has been used and which specifies the total number of accessory agricultural dwelling units allowed relative to the total number resulting by current use of this Section. Where the total number of accessory agricultural dwelling units are equal to the maximum permitted by this Section, the deed restriction shall state that no further detached accessory agricultural dwellings shall be permitted.

E. Composting Operations.

- 1. Applicability. The provisions of this Section shall apply to the preparation, pasteurization, storage, use and disposal of compost. Compost shall include organic (animal and/or plant) and inorganic materials when prepared for agricultural use.
- 2. Standards. The preparation and storage of compost shall only be permitted in those cases where it is incidental to and in support of other agricultural activities. Commercial composting operations, that is, composting operations where the compost produced is not intended primarily for use on the premises of where it is being prepared, are prohibited.

3. Disposal. Disposal of used compost shall use one of the following methods:
 - a. Surface application on fields, provided the slope of any tract used does not exceed fifteen (15%) percent, and is no closer than one hundred (100) feet to any flood hazard district, stream, or wetland in the Township.
 - b. Transported to a facility for processing into another form.

F. **Land Application of Sludge.** To insure the natural resources of the Township are protected against environmental hazards and to protect the health and safety of Township residents, the following regulations have been established with respect to the application of sewage sludge to land:

1. Authorization. The provisions of this section are enacted pursuant to the authority granted to the Township under the Municipalities Planning Code, Act 247, Article VI, and the Pennsylvania Solid Waste Management Act, as amended, (35 P.S. §§ 6018.101 et seq.), with respect to protecting health and public safety of Township residents through the proper use of land and natural resources.
2. Filing an Application. An applicant proposing to utilize sludge on any property in the Township shall submit to the Township an application for a special exception pursuant to the provisions of Section 1706.D. of this Ordinance. Each site proposed for land application shall require a separate special exception. Applications shall include the following information to assist the Zoning Hearing Board review of each application, and to supply the Township with adequate data on which to base input into the Department of Environmental Protection review for sewage permitting:
 - a. A description of the proposed application program including the source(s) of the sludge and how it is to be transported to the site, a timetable for application, a description of any storage operations, the proposed utilization rate and the total acreage involved.
 - b. A copy of the application for a sewage sludge transporting and disposal permit submitted to the Pennsylvania Department of Environmental Protection and the feasibility of the site for sludge application.
 - c. A survey of the property prepared by a professional surveyor at a scale no greater than one (1) inch to two hundred (200) feet indicating:
 - 1) Topographic features of the tract using two (2) foot contour lines;
 - 2) Soil types and their boundaries;
 - 3) Identification of adjacent property owners; and
 - 4) Location of all public and private water supplies within one quarter (1/4) of a mile of the site boundaries, including wells, springs and other water bodies.

- d. A soils and geologic report indicating the physical characteristics of the site with respect to its suitability for application of sludge. The report shall be based on available soil survey and geologic data, and accompanied by field test analysis. Field tests shall include:
- 1) Soil borings by a soil scientist to confirm actual soil profile characteristics are consistent with published soil survey data.
 - 2) Groundwater monitoring well shall be established to test water quality prior to, during, and after the application program. Groundwater composition shall be included in the application, along with subsequent quarterly monitoring during the application program. The location of the monitoring well shall be approved by the Township prior to drilling. In the event that groundwater is found to flow in several directions, a monitor well for each direction may be required.
- e. A chemical analysis of the sludge from each proposed source. The analysis shall be done by an independent laboratory approved by the Township, and shall involve a minimum of three (3) samples. The analysis shall include the following items:
- 1) Total moisture content;
 - 2) Percent total nitrogen (dry weight);
 - 3) Percent ammonia (dry weight);
 - 4) Percent heavy metals (dry weight);
 - 5) Biological oxygen demand content; and
 - 6) pH rating.
- The Township may require additional analysis during the application program to insure sludge content remains within the limits established by this Ordinance, but shall include a minimum of four (4) samples a year as part of a monitoring program.
- f. Any costs incurred in the monitoring or testing requirement of this Section shall be borne by the applicant.
- g. A notarized statement from the owner of the tract indicating his or her awareness of the proposed sludge project.

3. Standards. The following standards have been established for all proposed sludge programs, based on the guidelines for sewage sludge use by the PaDEP and the Pennsylvania State University:

- a. Area. No site shall be approved for land application of sludge which is less than ten (10) contiguous acres.
- b. Isolation Distances. Application of sludge should be designed at a minimum setback distance of:
 - 1) Three hundred (300) feet from any dwelling, well or other water supply.
 - 2) One hundred (100) feet from any stream or floodplain limit.
 - 3) One hundred (100) feet from any property line.
 - 4) Twenty-five (25) feet from any rock outcropping.
- c. Slope Considerations. Application shall not take place on slopes exceeding fifteen (15%) percent.
- d. Application Rates. The maximum amount of sludge to be applied shall not exceed five thousand (5,000) gallons per acre per day. The total annual application rate shall not exceed thirty thousand (30,000) gallons per acre per year. Application rates should be adjusted in accordance with the following vegetative considerations.

<u>VEGETATION TYPE</u>	<u>MAXIMUM APPLICATION RATE (GAL/AC/YR)</u>
Corn	30,000
Sudan Grass	30,000
Mixed Grass/Hay	20,000
Wheat	4,000
Barley	4,000
Oats	4,000

- e. Permitting. Any requests for sludge application shall be in compliance with the requirements of the PaDEP, and shall have obtained a permit from the PaDEP prior to commencing the program. Evidence of the permit shall be placed on file with the Township for each site.
- f. Access. All sites to be considered for sludge application shall have direct access to a collector road with an improved, mud-free driveway to insure safe access of delivery trucks, and to prevent potential congestion, and excessive wear and tear on local roads. In the event access to a site is along a local road, as defined in the Comprehensive Plan, the Township may require the applicant to bear the cost of upgrading the road to collector road standards in order to accommodate the number and weight of trucks anticipated to visit the site. In no case shall the access road be less than twenty-four (24) feet in width.
- g. Records. All applicants shall maintain records on each application and said records shall be submitted to the Township upon request.

- h. Method of Application. Sludge shall be applied using subsurface injection apparatus. Surface application shall be prohibited.

G. **Storage of Sludge**. Storage of sludge shall be governed by the following regulations.

1. Sludge Lagoons. No open sludge lagoons shall be permitted in the Township.
2. Storage Facilities. A storage facility shall be designed to hold no more than a quantity of sludge equivalent to one (1) day's usage, provided the facility is lined and covered with an impervious material to prevent leakage or runoff.
3. Site Requirements. A storage site must have a minimum of ten (10) contiguous acres, having a minimum of five hundred (500) feet setback from any property line and a minimum of two hundred (200) feet setback from any existing floodplain, wetland, or stream.
4. Fencing. A storage facility shall be enclosed by a fence having a minimum height of six (6) feet which prevents trespassing.

SECTION 1203. ANTENNAS, TOWERS, & EQUIPMENT.

A. **Definitions.**

1. Communications Antenna – Any transmitting or receiving device including omnidirectional or whip antenna, directional or panel antenna, and microwave dish antennae, and including the accessory equipment cabinet necessary to operate the antenna, mounted on a tower, building or structure and used in communications that radiate or capture electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunications signals or other communication signals.
2. Communications Facility – Any communications antenna or communications tower, as defined herein, which is operated by any agency or corporation, including a public utility regulated by the Public Utilities Commission (PUC) or any agency or franchise of Elk Township, or any police, fire, emergency medical or emergency management agency, but not to include satellite dish antennae, defined as parabolic dishes designed for “receive only” viewing of satellite programs for private viewing, or radio and television antenna defined as freestanding or building-mounted antennae located on residential property designed to enhance radio or television reception for the residents of the dwelling.
3. Communications Tower – Any structure, whether freestanding or attached to a building, designed to support one or more communications antennae, including, but not limited to self-supporting lattice towers, monopole towers, guyed towers, or one or more of the following mounts for antennae: rotatable platform, fixed platform, multi-point, side arm and pipe mounts for microwave dishes. The term includes radio and television towers, alternative tower structures, and the like. The term includes the structure and any support thereto.

- B. **Applicability and General Requirements.** Within the applicable zoning districts (excluding C-1 Village Commercial and LV Lewisville Village where they are prohibited), communication antennas, towers, and equipment shall be permitted by conditional use subject to the following regulations:
1. All other towers in the Township shall be occupied to capacity prior to creating a new tower.
 2. The Township may, at its sole discretion, require the applicant to locate the use on any property now owned by the Township or on any property designated by the Township as real property under the ownership or control of the Township, excluding property within the C-1 Village Commercial and LV Lewisville Village Districts.
 3. There exists no other structures, which includes but is not limited to smoke stacks, water towers, tall buildings antenna support structures of other cellular phone companies, public utility transmission structures, other communication towers, farm silos or other tall structures, on which the antenna could be installed. The applicant must supply a scaled map detailing all towers and tall structures within a ten (10) mile radius of the proposed tower site;
 4. The proposed equipment would not cause RF (Radio Frequency) interference with other existing or proposed equipment for that existing structure and the interference cannot be prevented;
 5. Addition of the proposed equipment would not result in NIER (Non-Ionizing electromagnetic Radiation) levels which exceed federal or State emissions standards;
 6. The applicant shall demonstrate that he/she is licensed by the Federal Communications Commission (FCC) to operate a communications facility. At any time during the calendar year that an amendment to the FCC license is issued, a copy of the amended license shall be submitted to Elk Township within thirty (30) days of the issuance;
 7. Proof shall be provided that the proposed communications facility complies with safety standards and electromagnetic field limits established by the FCC. In the event that more stringent standards are imposed by the FCC at a later date, those standards shall apply;
 8. Proof shall be provided that the communications facility has been reviewed, and has not been determined to be a hazard, by the Federal Aviation Administration (FAA). The communications tower shall meet all FAA regulations and any Airport Zoning Regulations;
 9. The applicant shall submit evidence that the tower, or an antenna addition to an existing tower or structure, and its method of installation, has been designed by an engineer registered in the Commonwealth of Pennsylvania and is certified by that engineer to be structurally sound and furnish testimony regarding the construction method or other measures used to prevent the toppling of any structure onto other adjoining properties, structures and/or roads and wind borne scattering of ice onto adjoining properties, structures, and/or roads and withstand wind and other loads in accordance with applicable building codes;

10. The owner of any communications tower shall be required to conduct periodic inspections of the tower to ensure structural integrity. These inspections shall be done at least annually and the owner shall submit proof to the Township Board of Supervisors of its annual inspection, certificate of insurance, and tower and maintenance program. Any structural faults noted shall be immediately corrected by the owner;
11. All lighting, other than that required by the FAA shall be in accordance with the provisions of Section 1301.F. and in any case shall be shielded and reflected away from adjoining properties;
12. An Elk Township building application must be filed and fees paid prior to any work at the site of a tower. Any engineering approval costs will be billed to the applicant; and
13. The facilities which are erected to maintain a communication facility may not include offices, long-term vehicle parking or storage, other outdoor storage, broadcast studios, or other uses that are not needed to send or receive signals unless such facilities are permitted by right in the zoning district.

C. Specific Regulations.

1. Radio Towers and Antennas.

a. Radio Towers. The following regulations shall apply:

- 1) Radio towers shall be permitted in any district by conditional use. Said permission shall be made on a temporary basis and shall apply to the individual or company holding a valid operator's license. The temporary permit shall be effective so long as such license remains active and the tower is maintained in good repair. Within sixty (60) days of the expiration of such license, the applicant shall dismantle the structure covered by the temporary permit.
- 2) The tower and foundation shall be designed and its construction supervised by a registered engineer. The applicant shall file a location plan and details for the tower prepared by the same registered engineer, as well as manufacturer's specifications.
- 3) Radio towers must conform to applicable FCC Regulations.
- 4) The tower shall meet all yard requirements of the zoning district in which it is located and no portion of the base of the tower shall be located closer to any lot line, buildings, power lines, etc. than the height of the tower.
- 5) Radio towers shall be separated from each other for a distance equal to their combined heights.
- 6) Radio towers shall be located only within the side or rear yards of a lot, but not within the prescribed setback of an applicable district.

- b. Antennas and Radio Towers. The following regulations shall apply:
- 1) **Limitation in Number.** Only one (1) antenna shall be permitted per lot; except retail sales of antennas for permanent display purposes, and provided further that such display shall be in accordance with the required setback provisions of the applicable commercial district. The antenna shall be considered as a permissible accessory use, subject to the rules and regulations of the applicable zoning districts.
 - 2) **Size Permitted:**
 - a) The maximum diameter of the antenna shall not exceed ten (10) feet if ground mounted.
 - b) When separately supported, the total height of the antenna shall not exceed twelve (12) feet.
 - c) When roof mounted, the maximum diameter of the antenna shall not exceed four (4) feet.
 - 3) **Location and Mountings:**
 - a) Ground antennas shall be located only in the rear yard or in the side yard not extending beyond the building setback, and adhere to all setback requirements of the applicable district.
 - b) Ground mounted antennas shall be secured by a foundation approved by the Township Engineer.
 - c) When roof mounted, the antenna shall be located on a portion of the roof sloping away from the front of the lot, and no part thereof shall project above the roof ridge line.
 - 4) **General Regulations:**
 - a) No antenna may be erected in any district or in location within a district which is prohibited by regulations of the FCC or other regulatory agency having jurisdiction. The burden to show compliance shall be on the applicant and shall be stated in the permit application.
 - b) antennas shall be properly installed to resist a minimum wind load of thirty (30) pounds per square foot of projected horizontal area. Supports, anchors and foundations shall force into account overturning improvements and forces created by wind loading.
 - c) This Section shall in no event be construed to permit as a permissible accessory use an antenna for satellite

communication used or intended to be used for the propagation of radio, micro or electromagnetic waves.

- d) No antenna installation shall be permitted in any parking lot or parking area.
 - e) The applicant shall demonstrate how he plans to mitigate any potential interference caused by the construction and/or operation of the tower or antennae.
- 5) Permit Procedure. Before erection of any antenna, a permit application shall be made to the Township, a permit issued and a fee paid, the amount of which shall be set aside from time to time by resolution of the Township Supervisors. All applications for a antenna permit shall be made to the Zoning Officer in writing on a form furnished by the Township and shall be accompanied by plans, in duplicate and seal, showing:
- a) For ground mounted antennas:
 - i. The dimensions of the lot and location of the buildings thereon;
 - ii. Details of all antenna anchors, supports and foundations the exact size of the antenna, including dish and the exact proposed location of the antenna on the lot;
 - iii. When antennas are attached to an existing structure, details will be distributed to the existing structure.
 - b) For roof mounted antennas:
 - i. Design wind load on each anchor and allowable wind load on each anchor;
 - ii. Forces on foundation, including live load and dead load;
 - iii. Strength and allowable stresses of cables, rods or braces and the actual force and allowable force for each cable, rod and brace.
 - iv. Details of all anchors and supports, the exact size of the antenna and proposed location of the antenna.
 - c) If the manufacturer's specifications submitted with the application specify the installation criteria for 5a – 5b, they shall be made part of the Plan and separate calculations shall not be required.

2. Communications Antenna.

- a. The following standards shall apply to the location of such antennae and associated uses.
 - 1) A cell site with antenna that is attached to an existing communications tower, smoke stack, water tower, or other tall structure in any zoning districts shall not exceed the height of the existing structure by more than fifteen (15) feet. If the antenna is to be mounted on an existing structure, a full site plan shall not be required.
 - 2) If located on the same lot with another permitted use, the antenna shall not be located in the front or side yard. This requirement shall not apply to an antenna mounted on an existing structure.
- b. Standards of approval applicable to all communication antenna.
 - 1) Height. The applicant shall demonstrate that the antenna is the minimum height required to function satisfactorily, which shall not exceed one hundred and fifty (150) feet, unless mounted on an existing structure, in which case the height standards of section 1203.C.2.a.1) shall apply.
 - 2) Setbacks. If a new antenna structure is to be constructed, the minimum distance between the base of the support structure or any guy wire anchors and any property line shall be equal to or greater than the antenna height, as defined herein.
 - 3) Structure safety. The applicant shall demonstrate that the proposed antenna and support structure are:
 - a) Safe;
 - b) Designed and built in accordance with the Township Building Code and other applicable codes and standards;
 - c) That the surrounding areas will not be negatively affected by support structure failure, falling ice or other debris, electromagnetic fields, or radio frequency interference; and
 - d) All support structures shall be fitted with anti-climbing devices, as approved by the manufacturer.
 - 4) Fencing. A fence shall be required around the antenna support structure and other equipment, unless the antenna is mounted on an existing structure. The fence shall be eight (8) feet in height.
 - 5) Landscaping. Landscaping shall be required to screen as much of the support structure, fence and other ground level features as possible in accordance with the approved plant list included in Section 1301.E.7. A

combination of existing vegetation, topography, walls, decorative fences, or other features may be permitted if they achieve the same degree of screening as required below:

- a) An evergreen screen consisting of either a hedge planted three (3) feet on center maximum or evergreen trees planted ten (10) feet on center maximum.
 - b) Existing vegetation on and around the site shall be preserved to the greatest extent possible.
 - c) If the antenna is mounted on an existing structure, such landscaping shall not be required.
- 6) Shared use. To reduce the number of antenna support structures needed in the community in the future, the proposed support structure shall be required to accommodate other users, including other commercial communication companies, and local police, fire, and ambulance companies.
 - 7) Licensing. The commercial communications company must demonstrate that it is licensed by the FCC.
 - 8) Parking. If the cell site is fully automated, adequate parking shall be required for maintenance workers; if the site is not automated, the number of parking spaces shall equal the number of people on the largest shift.
 - 9) Painting. Support structures shall be painted or have a galvanized finish to reduce visual impact. Painting of support structures shall meet all FAA regulations.
 - 10) No antenna support structure shall be artificially lighted except as required by the FAA; and such lights shall be shielded so as to reduce intrusion upon nearby properties.
 - 11) Annual Inspection. In January of each year, the owner of a communications tower shall submit written verification to the Township Secretary that there have been no changes in the operating of the communications tower as stated at time of conditional use approval, including at a minimum:
 - a) A copy of the current FCC license;
 - b) The name, address, and emergency telephone number for the operator of the communications tower; and
 - c) A copy of the Certificate of Insurance, including liability for storm or unpredicted damage at a level of coverage acceptable to

the Township Solicitor, with Elk Township added as the named insured on the policy.

- 12) Site Plan requirements.
- a) A site plan conforming to the requirements of the Township Subdivision and Land Development Ordinance shall be required for all cell sites proposing a new structure or antenna fifteen (15) feet or higher than the existing structure on which it is mounted. The site plan shall show the antenna, antenna support structure, building, fencing, buffering, grounding, and all other items required by the Subdivision and Land Development Ordinance, and shall meet all requirements of this Zoning Ordinance for the district in which it is located.
 - b) The site plan shall not be required if the antenna is to be mounted on an existing structure and is less than fifteen (15) feet higher than the existing structure. In such cases, information necessary for the applicable zoning permit and building permit shall be provided.
 - c) Standards for commercial communication antenna requiring conditional use approval.
 - i. The commercial communications company is required to demonstrate, using technological evidence, that the antenna must be located where it is proposed in order to satisfy its function in the company's grid system, and demonstrate that there is a need for this facility in the community where it will be placed.
 - ii. If the commercial communications company proposes it build a tower, as opposed to mounting the antenna on an existing structure, it is required to demonstrate that it contacted the owners of all tall structures within a one-quarter (1/4) mile radius of the site proposed, asked for permission to install the antenna on those structures, and was denied for reasons other than economic ones. Tall structures shall include smoke stacks, water towers, tall buildings, antenna support structures of other communications towers (fire, police, etc), and other tall structures. The Township may deny the application to construct a new tower if the applicant has not made a good faith effort to mount the antenna on an existing structure.
3. Removal of Commercial Communication Antenna. All conditional uses under this Section will automatically lapse if the communications facility is not used for six (6) continuous months. In such case, all portions of the communications facility shall be

removed by the party responsible for erecting the facility, with costs of removal to be borne by that party.

4. Conflict. Where the regulations contained in this Section are in conflict with any other adopted Township regulations, the more restrictive standards shall apply.
5. Performance Bond. A performance bond shall be posted by the applicant, prior to the issuance of a permit by the Township. The amount of the performance bond shall be established by the Township engineer, and shall be an amount which will adequately cover the removal of the tower and related facilities and equipment in the event the applicant abandons the tower or is unable to correct problems identified in the annual inspection. Such performance bond shall not be used by the Township for any other purposes upon the removal of the tower and related facilities and equipment, to the satisfaction of the Board of Supervisors, the bond shall be released to the applicant.

SECTION 1204. AUTOMOBILE, TRUCK, AND FARM EQUIPMENT SALES.

Automotive, truck, and farm equipment sales facilities shall be subject to the following regulations:

- A. The minimum lot size for automobile and truck sales is two (2) acres.
- B. Building and permanent structures must be setback a minimum of seventy-five (75) feet from all property lines. Parking and display areas for automobiles and trucks and service and loading areas shall be a minimum of fifty (50) feet from all residential uses and districts.
- C. A minimum of twenty (20%) percent of the lot shall be landscaped and open areas.
- D. Primary access shall be from a collector or arterial roadway, as defined in the Township Comprehensive Plan.
- E. This use may contain up to a maximum of sixty thousand (60,000) square feet of total floor area. For the purposes of this Section, an individual building shall be considered as a space or contiguous spaces under one roof, fully separated from any abutting building by permanent walls and with no direct access to any abutting building.
- F. Except where buildings directly abut one another, no individual building shall be placed closer to any other building than the height of the taller of such adjacent buildings.
- G. Parking lot design, landscaping, buffering, lighting, signs, and access shall be in accordance with the applicable sections of this Ordinance.

SECTION 1205. BANK & FINANCIAL INSTITUTION.

Banks or other financial institutions shall be subject to the following regulations:

- A. The use shall have direct access to a collector or arterial road as defined by the Township Comprehensive Plan, as amended.

- B. There shall be no more than one (1) point of egress to each street on which the lot abuts.
- C. Access points shall have a minimum separation distance of forty (40) feet from street intersections. The distance shall be measured from the street right-of-way to the edge of the access driveway.
- D. Drive-through windows or automated tellers shall have a vehicle stacking lane which can accommodate a minimum of six (6) cars. The stacking lane shall not be used for parking lot circulation aisles nor shall it conflict in any way with circulation or parking patterns. There shall be an escape lane provided that permits the egress of a vehicle from the stacking lane without impeding the regular flow of vehicular traffic.

SECTION 1206. BED & BREAKFAST

Bed and breakfast facilities shall be subject to the following regulations:

- A. A bed and breakfast facility shall be permitted only in single family detached, owner-occupied dwellings.
- B. The principal use of the property shall remain that of a single family residential dwelling.
- C. Exterior and interior alterations shall be limited to those customarily associated with residential use or those which may be required by the Pennsylvania Department of Labor and Industry or for safety reasons as required by any other local, state, or federal regulations. Fire escapes, external stairways, or additional external doors shall be located either to the side or rear of the residence.
- D. No more than four (4) guest rooms may be offered on any individual residential property.
- E. There shall be provided one (1) full bathroom (one toilet, wash basin, bath/shower) for each two (2) guest rooms.
- F. The length of stay shall be not more than seven (7) uninterrupted days for any guest.
- G. Meals shall consist of breakfast only and only for the guests of the establishment. Owners shall comply with all federal, state, and local requirements for the preparation, handling and serving of food. There shall be no separate cooking facilities in any guestroom.
- H. Any amenities (swimming pool, tennis court, etc.) shall be solely for the use of the resident owner and bed and breakfast guest. When located within one hundred (100) feet of a residential use, the use of active recreation amenities, such as a swimming pool or tennis court, shall be limited to between the hours of 9:00 a.m. and 10:00 p.m.
- I. The owner shall maintain a current guest registration.
- J. Area and bulk standards shall be those that apply to single family detached dwellings within the applicable zoning district.

- K. One (1) on-site parking space shall be provided per guest room and shall not be located in any required yard area.
- L. One (1) sign shall be permitted in association with a bed and breakfast operation. Any such sign shall be in accordance with the provisions of Article XIV.
- M. Each bed and breakfast facility shall be equipped at minimum with one (1) smoke detector and one (1) fire extinguisher per floor. In addition, each bedroom shall be equipped with one (1) smoke detector. Guests shall be provided with floor plans of the dwelling for emergency exits.

SECTION 1207. CEMETERY

Cemeteries shall be subject to the following regulations:

- A. Proper landscaping and ground cover shall be maintained at all times.
- B. No buildings other than mausoleums, mortuaries, and the like shall be permitted and no building shall be more than fifteen (15) feet in height.
- C. No cemetery (except where located on the same lot as a church) shall be less than ten (10) acres in size, except that a pet cemetery shall have a minimum lot area of five (5) acres.
- D. An application for a cemetery use shall include the following:
 - 1. A Master Plan identifying the overall layout of plots, internal road network, buildings, and other improvements.
 - 2. A valid permit issued by the Pennsylvania Department of Health, when applicable.
 - 3. A narrative of how the cemetery will be developed and maintained.
- E. Individual plots shall be set back a minimum of fifty (50) feet from all lot boundaries and public rights-of-way.

SECTION 1208. COMMERCIAL DAY CARE CENTER.

Commercial Day Care Centers shall be subject to the following regulations:

- A. The minimum lot area for each child shall be one thousand (1,000) square feet, but no lot containing a day care center shall be less than thirty thousand (30,000) square feet.
- B. Play areas shall be designed according to the following standards:
 - 1. There shall be an indoor play area of fifty (50) square feet per child and an outdoor play area of seventy-five (75) square feet per child provided.

2. The outdoor play area shall be fenced on all sides and shall not include driveways, parking areas or land unsuited by other uses or natural features for children's active play area. Fencing shall be a minimum height of four (4) feet.
 3. Outdoor play areas adjacent to a residential use or district shall be set back a minimum of one hundred (100) feet from side and rear property lines and shall be sufficiently screened to minimize disturbance of residential properties. Outdoor play areas adjacent to non-residential uses or districts shall be set back a minimum of fifty (50) feet from side a rear property lines.
- C. A minimum of two (2) off-street parking spaces per ten (10) children shall be provided. An area for the discharge and pick-up of children shall be provided which is removed from both the parking and ingress/egress for the site.
- D. Prior to issuing of a permit by the Zoning Officer, the applicant shall have received and hold all pertinent approvals and licenses from appropriate State and County agencies as a condition of permit approval and continuation.

SECTION 1209. CONVENIENCE STORE.

Convenience stores shall be subject to the following regulations:

- A. Access shall be controlled and defined by the use of concrete curbing.
- B. There shall be no more than one (1) point of ingress and one (1) point of egress onto each street on which the lot abuts.
- C. Access points shall have a minimum separation distance of forty (40) feet from street intersections. The distance shall be measured from the street right-of-way to the edge of the access driveway.
- D. Trash receptacles shall be provided outside of the convenience store for patron use, but shall not be located near any adjacent residential properties.
- E. A trash storage area shall be provided which is screened from the street and adjacent properties to prevent trash from blowing from the area and to permit safe and easy trash removal.
- F. A maximum of four (4) gasoline pumps are permitted when in accordance with the following:
 1. Gasoline pumps installed in connection with any convenience store may be placed within the required front yard, but in no case closer than twenty-five (25) feet of any street right-of-way line.
 2. The Zoning Hearing Board may require screening to be provided in front of gasoline pumps per Section 1301.E. of this Ordinance.
 3. Parking and stacking spaces shall be provided in accordance with the requirements of Article XIII.

4. A convenience store with gas pumps must have adequate fire extinguishers, ample no-smoking signs posted, and any other safeguards deemed necessary for the public safety in accordance with the Pennsylvania State Fire Code and any other applicable state or federal regulations. A permit shall be obtained from the State Police Fire Marshall.
 5. Underground storage tanks shall comply with all applicable regulations of the United States Environmental Protection Agency (EPA) and the PaDEP, including notification and registration requirements. If warranted, as determined by the Township, the applicant may be required to place tanks in a concrete vault, install other impervious lines, and/or install monitoring devices.
- G. Lighting, screening, and landscaping shall be provided in accordance with the provisions of Article XIII.

SECTION 1210. EATING ESTABLISHMENT OR RESTAURANT.

Restaurants or eating establishments shall be subject to the following regulations:

- A. The use shall have access to either a collector or arterial street as defined in the Township Comprehensive Plan.
- B. Trash receptacles shall be provided outside of the restaurant for patron use, but shall not be located near any adjacent residential properties.
- C. A trash storage area shall be provided which is screened from the street and adjacent properties to prevent trash from blowing from the area and to permit safe and easy trash removal.
- D. When the use is adjacent to or on the same lot with other commercial facilities, it shall use the common access with the other establishments and not have a separate access to the street.
- E. Access shall be a minimum of forty (40) feet from street intersections. The distance shall be measured for the street right-of-way to the edge of the access driveway.
- F. Lighting, screening, and landscaping shall be provided in accordance with the provisions of Article XIII.

SECTION 1211. EDUCATIONAL USE.

An educational use shall be subject to the following regulations:

- A. A school that is licensed under the appropriate governmental authority shall be subject to the following provisions:
 1. Access shall be taken from a major or minor collector or a minor arterial as defined by the Township Comprehensive Plan, as amended.

2. The minimum required tract size is two (2) acres.
 - a. Outdoor play or recreation areas adjacent to a residential use or district shall be a minimum of two hundred (200) feet from the side and rear property lines and shall be sufficiently screened to minimize disturbance of residential areas.
 - b. Outdoor play or recreation areas adjacent to a non-residential use or district shall be a minimum of fifty (50) feet from side or rear property lines.
- B. Trade or professional schools of art, music, or dancing shall not be permitted in residential zoning districts. The minimum required lot size shall be that of the underlying zoning district.
- C. Educational uses shall be served by public sewer and water facilities.

SECTION 1212. FRATERNAL INSTITUTION, CLUB, OR LODGE.

Clubs or lodges shall be subject to the following regulations:

- A. The minimum lot area for a club or lodge shall be two (2) acres.
- B. When abutting a residential use or property the following standards shall apply:
 1. All buildings, parking, and facilities for outdoor activities shall be screened in accordance with Section 1301.E.
 2. The hours of operation may be limited by the Zoning Hearing Board.
- C. Outdoor activity areas shall be set back a minimum of fifty (50) feet from any property line.
- D. Outdoor lighting shall comply with the provisions of Section 1301.F.

SECTION 1213. GASOLINE AND/OR SERVICE STATION.

Gasoline or service stations shall be subject to the following regulations:

- A. Gasoline pumps or other service appliance installed in connection with any service station may be placed within the required front yard, but in no case closer than twenty-five (25) feet of any street right-of-way line.
- B. The Zoning Hearing Board may require screening to be provided in front of gasoline pumps per Section 1301.E of this Ordinance.
- C. A service station must have adequate fire extinguishers, ample no-smoking signs posted, and any other safeguards deemed necessary for the public safety in accordance with the Pennsylvania State Fire Code and any other applicable state or federal regulations.. A permit shall be obtained from the State Police Fire Marshall.

- D. Underground storage tanks shall comply with all applicable regulations of the EPA and the PaDEP, including notification and registration requirements. If warranted, as determined by the Township, the applicant may be required to place tanks in a concrete vault, install other impervious lines, and/or install monitoring devices.
- E. All automotive parts, refuse, and similar articles shall be stored within a building or enclosed area screened from adjacent uses.
- F. Vehicles waiting for repairs shall not be stored outside for more than ten (10) days. Junk vehicles may not be stored in the open at any time.
- G. Access shall be controlled and defined by the use of concrete curbing.
- H. There shall be no more than one (1) point of ingress and one (1) point of egress onto each street on which the lot abuts.
- I. Access points shall have a minimum separation distance of forty (40) feet from street intersections. The distance shall be measured from the street right-of-way to the edge of the access driveway.
- J. Trash receptacles shall be provided outside of the convenience store for patron use, but shall not be located near any adjacent residential properties.
- K. A trash storage area shall be provided which is screened from the street and adjacent properties to prevent trash from blowing from the area and to permit safe and easy trash removal.
- L. Parking and stacking spaces shall be provided in accordance with the requirements of Section 1304.
- M. Lighting, screening, and landscaping shall be in accordance with the provisions of Article XIII.

SECTION 1214. GROUP HOMES.

Group homes shall be subject to the following regulations:

- A. In order to prevent the creation of a de facto social service district or concentration of group home facilities and to avoid impacting an area by a higher concentration of these facilities, the following regulations shall apply:
 - 1. No more than one (1) group home and a total of six (6) persons residing in this type of facility shall be permitted within a one half (1/2) square mile from another group home.
 - 2. No additional group home shall be established which would increase the number of persons living in such facilities beyond three (3) percent of the total number of persons living within the square mile surrounding the applicant facility.
- B. Group homes may have no more than six (6) residents per facility.

- C. The minimum lot size for a group home shall remain the same as that permitted by the zoning district.
- D. There shall be a minimum floor area of two thousand (2,000) square feet for the residents of the group home.
- E. Each group home must receive all pertinent approvals and/or licenses from the appropriate state or County agencies prior to special exception approval.
- F. There shall be one (1) off-street parking space per supervisor or employee and one (1) space per three (3) residents. All parking areas for more than five (5) vehicles shall be screened in accordance with Article XIII of this Ordinance.

SECTION 1215. HOME OCCUPATIONS.

Home occupations such as a professional office or studio of a doctor, dentist, teacher, artist, architect, musician, lawyer, engineer, accountant, consultant, manufacturer's agent or sales representative, magistrate, or practitioner of a similar character, or rooms for home occupations, or handicrafts, day care, or for teaching not more than four (4) pupils at one time, provided that:

- A. Office, studio or rooms are located in a dwelling in which the practitioner resides, or are in a building accessory thereto;
- B. No goods are publicly displayed on the premises;
- C. Not more than twenty (20%) percent of the habitable floor area shall be used for any such occupation, but in no case more than five hundred (500) square feet;
- D. This subsection shall not be construed to authorize the practice of said profession or occupation on the premises by persons not actually resident thereon, except that not more than four (4) assistants shall be permitted who may not reside on the premises;
- E. Such profession or occupation shall not involve the regular presence of parking or commercial vehicles on the lot;
- F. Such profession or occupation shall not result in the parking of any vehicle on any street or highway;
- G. The exterior of the residence or accessory structure shall have an appearance no different than if there were no home occupation conducted inside;
- H. No offensive or disturbing noise, smoke, odor or other objectionable effects in accordance with the provisions of Section 1305 and as determined by the Zoning Officer, shall be noticeable at or beyond the lot line;
- I. When patrons are expected to drive to the use, a minimum of two (2) and maximum of four (4) off-street parking spaces shall be required on the lot in addition to those required for the residential dwelling.

SECTION 1216. HOMEOWNERS ASSOCIATION.

The formation of a homeowners association shall be governed according to the following regulations:

- A. The applicant shall provide a description of the organization, including its by-laws and methods for maintaining common open space and improvements to the Township, the Township Engineer and the Township Solicitor prior to distribution to any parties. After the documents have been examined by these parties, approval of the Township is required.
- B. The organization is organized-by the developer and operating with financial subsidization by the developer, if necessary, before the sale of any lots within the development.
- C. Membership in the association is mandatory for all purchasers of homes or lots therein and their successors. The conditions and timing of transferring control of the association from applicant to the homeowners association shall be identified.
- D. The association shall be responsible for maintenance of insurance and taxes on common facilities and open space, enforceable by liens placed by the Township. Any governmental body with jurisdiction in the area where the development is located may place liens on the owners of the open space to collect unpaid taxes.
- E. The members of the association shall share equitably the costs of maintaining and developing common open space and all commonly held amenities, in accordance with the procedures established in them with Township approval. Shares shall be defined within the association by-laws or declaration. Association dues shall be structured to provide for both annual operating costs and to cover projected long-range costs relating to the repair of any capital facilities (which shall be deposited in a sinking fund reserved for just such purposes).
- F. The organization shall have or hire adequate staff to administer common facilities and maintain the common open space.
- G. In the event of the proposed transfer, within the methods herein permitted, of common open space or facilities by the homeowners association, or of the assumption of maintenance of common open space and facilities by the Township as hereinafter provided, notice of such action shall be given to all members of the association.
- H. The homeowners association may lease back common open space to the developer, his heirs, or assigns, or to any other qualified person, or corporation, for operation and maintenance of the common open space, but such a leased agreement shall provide:
 - 1. That the common open space to be leased shall be maintained for the purposes set forth in this Ordinance;
 - 2. That the residents of the development shall at all times have access to the open space lands contained thereon (except that access to land that is actively farmed shall be limited to times of the year when fields are fallow); and

3. That the operation of common open space may be for the benefit of the residents of the development only, or may be open to the residents of the Township, at the election of the homeowners association.
- I. The lease referred to in Section H, above shall be subject to the approval of the Board of Supervisors and any transfer or assignment of the lease shall be further subject to the approval of the Board. Lease agreements so entered upon shall be recorded with the Recorder of Deeds of Chester County within thirty (30) days of their execution and a copy of the recorded lease shall be filed with the Township Secretary.
- J. Maintenance of Open Space and Common Facilities. Maintenance of open space and common facilities shall be in accordance with the provisions of Section 1301.A.13.

SECTION 1217. INDIVIDUAL PROFESSIONAL, ADMINISTRATIVE, OR MEDICAL OFFICE

Individual professional, administrative, and medical office uses shall be subject to the following regulations:

- A. The use shall have direct access to a collector of arterial road as defined by the Township Comprehensive Plan, as amended.
- B. There shall not be more than one (1) point of egress to each street on which the lot abuts.
- C. The access shall be set back at least forty (40) feet from street intersections. The distance shall be measured from the street right-of-way to the edge of the access driveway.
- D. Where applicable, there shall be one (1) off-street parking space per employee, plus one (1) space per waiting room seat.
- E. Medical offices shall adhere to any applicable federal and state regulations.

SECTION 1218. MOBILE HOME PARK.

Mobile Home Parks shall be subject to the following regulations:

- A. General Regulations
 1. Each mobile home park shall be established, maintained, constructed, and operated in accordance with the Township's Subdivision and Land Development Ordinance, Chester County Health Department regulations, the Pennsylvania Municipalities Planning Code, and the regulations of the Pennsylvania Department of Environmental Protection.
 2. Within a mobile home park, the following uses shall be permitted by right:
 - a. Mobile home units when self contained including cooking, sleeping, living, and lavatory facilities.

- b. Mobile home park office
 3. The following accessory uses shall be permitted within a Mobile Home Park:
 - a. Recreational facilities
 - b. Signs in accordance with the provisions of Article XIV
 - c. Uses which are customarily incidental to a mobile home park.
 4. All mobile homes shall have a minimum gross floor area of 700 square feet.
 5. No mobile home shall be located less than fifty (50) feet from another mobile home.
 6. Every mobile home lot shall be clearly marked and shall have a driveway providing unobstructed access to a street.
 7. Fully enclosed outdoor storage facilities shall be provided on each mobile home park lot. Such storage facilities shall be a minimum of fifty (50) square feet and a maximum of one hundred twenty (120) square feet in area, and shall be set back a minimum of ten (10) feet from the mobile home lot boundaries.
 8. Every mobile home shall have a skirt which is designed to compliment the appearance of the mobile home. Skirting material shall be specifically designed for this purpose and adequately vented to allow for access to all utility connections. In no instance shall the area beneath the mobile home be used for storage.
- B. The following area and bulk standards shall apply to mobile home parks:
1. The minimum lot size shall be ten (10) acres.
 2. The maximum density shall be four (4) dwelling units per net acre.
 3. A seventy five (75) foot perimeter setback from the entire tract boundary shall be provided.
 4. The minimum size of any mobile home lot shall be five thousand five hundred (5,500) square feet exclusive of walkways, streets or roads and the minimum lot width shall be fifty (50) feet.
 5. The maximum lot coverage for the mobile home park tract shall be 30%.
 6. The maximum building coverage for the mobile home park tract shall be 15%.

SECTION 1219. MULTI-FAMILY AND TOWNHOUSE DEVELOPMENT.

Multi-family or townhouse development shall be subject to the following regulations:

- A. The maximum length of a multi-family or townhouse building shall be one hundred and twenty (120) feet.
- B. Multi-family or townhouse buildings are encouraged to be located in clusters that create common courtyards and open space areas rather than situated parallel to one another. Where clustering is not feasible due to site conditions, there shall be no more than three (3) abutting buildings parallel to each other within the development.
- C. Buildings within the development shall be designed to provide individual dwelling units with views and direct access to the required open space area.
- D. The following building separation distances shall be met in order to provide individual dwelling units with some level of privacy:
 - 1. Facing front or rear walls (long walls) 75 feet
 - 2. Facing end walls (short walls) 35 feet
- E. Entrances to dwelling units shall be provided with walkways to parking and refuse collection areas. Dwelling units shall be set back a minimum of twenty five (25) feet from common parking lots and refuse collection areas.
- F. The design, ownership and maintenance responsibilities for required open space shall be in accordance with the provisions of Section 1301.A.
- G. Screening and landscaping of the proposed development shall be in accordance with the provisions of Section 1301.E.
- H. Staggering setbacks of individual dwelling units accompanied by a variation in façade design shall be required so the buildings offer variety and provide private yard areas. In the case of townhouse development, no more than two (2) contiguous units shall have the same façade setback within a building. Changes in unit setback shall involve a minimum of two (2) feet.
- I. Outdoor lighting shall be in accordance with the provisions of Section 1301.F.

SECTION 1220. NURSING HOME OR CONVALESCENT HOME.

A nursing home or convalescent home shall be subject to the following regulations:

- A. The minimum tract size shall be ten (10) acres.
- B. The intensity of use shall not exceed three (3) beds per acre, including patient beds and on-site living accommodations for staff persons.
- C. No less than thirty (30%) percent of the total area of the tract shall be designated as and used exclusively for open space.

- D. There shall be a minimum setback of one hundred (100) feet around the entire perimeter of the tract in which no buildings or structures shall be situated and in which screening per Section 1301.E of this Ordinance shall be located.
- E. The tract of land on which the use is conducted shall, in its entirety, be owned and operated as a single or common management and maintenance unit.
- F. The proposed use shall obtain all applicable state and/or federal permits, licenses, and certificates of need.

SECTION 1221. PUBLIC PARK & PLAYGROUND.

Public parks and playgrounds shall be subject to the following regulations:

- A. **Permitted uses.** landscaping, flower gardens, benches, picnic areas, playing fields, tennis courts, tot lots, community buildings, refreshment stands and passive recreation areas.
- B. Uses not related to the permitted uses are not allowed.
- C. Lighting shall be so designed as to prevent glare onto adjoining properties.
- D. No facility (swing, ball diamond, picnic ground, etc.) shall be closer than fifty (50) feet to street and thirty (30) feet to other property lines.

SECTION 1222. PERSONAL USE AIRPORT.

A personal use airport shall be subject to the following regulations:

- A. The proposed airport shall be constructed, operated and maintained in accordance with the published rules and regulations of the Federal Aviation Administration (FAA), Pennsylvania Bureau of Aviation and the National Fire Protection Association governing minimum safety standards and the use and licensing of airports.
- B. Each application for an airport shall include:
 - 1. A copy of the Federal Aviation Administration Form 74801, "Notice of Land Area Proposal."
 - 2. A copy of a letter of "No Objections" from the FAA.
 - 3. A copy of State of Pennsylvania Application for Approval of Landing Area Site and the letter of site approval from the Bureau of Aviation.
 - 4. An aerial photograph or drawing of a scale no less than one (1) inch equals four hundred (400) feet, indicating the approach and departure routes, the location of all residences, schools, churches, hospitals and areas used for the open assembly of people, as well as

- other noise sensitive areas within a radius of one-half (1/2) mile of the proposed airport site.
5. A statement of property ownership or authorization of the owner for the property proposed to be used as an airport.
 6. A description of the purpose for which the airport is being established and a schedule of proposed activities, including:
 - a. Number of monthly operations;
 - b. Hours of operation;
 - c. Support activities, such as storage, maintenance and refueling.
 7. A site plan which shall contain the following information in addition to requirements of the Township Subdivision and Land Development Ordinance:
 - a. The location, nature and height of proposed security fences, berms, landscaping and other security and noise attenuation structures.
 - b. The location and type of fire fighting equipment and materials.
 - c. The location and type of fuel storage facilities.
 - d. The location of all existing and proposed buildings.
 - e. The location of airport take-off and landing areas, parking areas, and the method of surface preparation or stabilization.
 - f. Approval of the local fire company for the installation and location of fire fighting equipment and materials, and the installation, location and method of use for refueling equipment and procedures.
- C. The minimum runway length for a personal use airport shall be two thousand (2,000) feet. The minimum runway primary surface width is one hundred (100) feet or fifty (50) feet either side of the runway centerline. The runway landing surface must be centered within the primary surface. The minimum width of the landing surface will be fifty (50) feet.
- D. Each runway will have an obstruction-free approach surface with a slope of twenty (20) feet to one (1) foot. The approach surface dimensions are: the centerline of this surface extends from the runway end (turf runways) or end of the obstacle-free zone (paved runway) outward and upward for one thousand five hundred (1,500) feet along the runway extended centerline. The approach surface width- will be one hundred (100) feet or fifty (50) feet either side of the runway extended centerline at the runway end, widening to three hundred (300) feet at one thousand five hundred (1,500) feet from the end of the runway.

- E. The diameter of a helicopter take-off and landing area shall be at least one and one-half (1 1/2) times the overall length of the largest helicopter expected to use the personal use airport, but no less than sixty (60) feet in diameter.
- F. Runways and taxiways shall be located a minimum of two hundred (200) feet from any property line and three hundred (300) feet from any public road right-of-way.
- G. Runways shall be located and oriented in such a manner that approach and departure routes are not situated within two hundred (200) feet vertically or horizontally of any residences, churches, hospitals, nursing homes and other institutional uses, places of assembly or other occupied buildings.
- H. The hours of operation of any personal use airport shall be restricted to 7:00 a.m. to 9:00 p.m.
- I. Personal use airports shall be screened in accordance with the requirements of 1301.E of this Ordinance.
- J. The runway longitudinal gradient should not exceed two (2%) percent, with a maximum acceptable of four (4%) percent.

SECTION 1223. PLANNED COMMERCIAL DEVELOPMENT STANDARDS.

The following provisions shall govern the combination of two (2) or more permitted uses, in accordance with the provisions of Section 901 in the C-1 Village Commercial District and Section 1001 in the C-2 General Commercial District.

- A. Prior to the issuance of a building permit, or any use and occupancy permit, the applicant shall prepare a plan indicating how the lot will be developed and used. The plan shall also identify specific ownership and maintenance responsibilities of the lot, buildings, structures and other improvements.
- B. The combined uses, buildings, structures and other improvements shall collectively comply with the bulk regulations under Section 902.C., and where applicable, shall comply with the screening and landscaping requirements of Section 1301.E.
- C. Parking needs shall be independently calculated for each use in accordance with Section 905.E. Parking facilities may be designed as a common parking lot, provided the required number of parking spaces are provided for each use. Parking facilities shall comply with the landscaping requirements of Section 1301.E.
- D. Only one (1) free-standing sign shall be permitted on a multiple-use lot. Such sign shall serve as a directory to uses on the lot. All individual signs shall be mounted on the building or structure housing the use. Signs shall be designed in accordance with the provisions of Article XIV.

SECTION 1224. PLANT NURSERY OR OTHER HORTICULTURAL USE.

Plant nurseries or other horticultural uses shall be subject to the following regulations:

- A. The minimum lot size for a nursery shall be two (2) acres.
- B. Single-family detached dwellings can be constructed as an accessory use, provided that all the minimum requirements are met.
- C. No fertilizer storage areas shall be closer than one hundred (100) feet to any property line.

SECTION 1225. RECREATIONAL USE (NON-COMMERCIAL).

Recreational uses shall be subject to the following regulations:

A. Permitted Uses.

- 1. Nonprofit facilities, including but not limited to parks, play fields, playgrounds, arboretums, conservation areas, wildlife sanctuaries, winter sports, swimming pools, boating, horseback riding, fishing, foot, bicycle and bridle paths, picnic areas, tennis and other racquet game courts or any similar uses characteristically identified with open space areas, and of a non-commercial nature, but in accordance with the following development standards:
 - a. Impervious cover for the use shall not exceed fifteen (15%) percent of the lot area, including pedestrian or bicycle paths.
 - b. Any improvements, such as a building or structure, excluding impervious cover, foot or bicycle paths and unnecessary accessways, shall be no closer than one hundred (100) feet to any lot boundary.
- 2. Any of the following uses when permitted by the Zoning Hearing Board as a special exception as provided in Article XVII.
 - a. Any use permitted in Section 1226.B. that is commercial or exceeds the development standards of that Section.
 - b. Golf course, racquet club or other similar commercial or non-commercial recreational club.
 - c. Campground or recreational vehicle park (excluding mobile home).
 - d. Auxiliary uses customarily incidental to operation of the uses in subsections a., b., and c., above, including a restaurant, locker room, laundry, management headquarters, residence, nursery and day care center.

B. Development Standards. Any use permitted in subsection 1225.A.2, above, as a special exception shall comply with the following:

- 1. Development plans for any use under this Section shall be subject to review and approval by the Township.

2. Minimum lot size shall be five (5) acres.
3. Any structure, building, parking, storage, loading or paved areas, excluding foot and bicycle paths, and other than necessary accessways to a public street, shall not be located closer than one hundred (100) feet to any lot line, and shall be screened from dwellings in accordance with the provisions of Section 1301.E if located within or abutting a residential district.
4. If practical, vehicular access for the use shall not be from any local street in a residential district or residential development.
5. Auxiliary uses shall be restricted in their use to employees, patrons, members and guests of the principal use. Such establishments shall present no visible evidence from any public street of their commercial character which would attract persons other than employees, patrons, members and guests.

SECTION 1226. RECREATIONAL USE (INDOOR/OUTDOOR COMMERCIAL).

Recreation uses shall be subject to the following regulations:

A. General Development Standards.

1. The Master Plan. A Master Plan for the entire tract of land shall be prepared as part of the application for a use under this Section. The Master Plan shall provide sufficient data to ascertain the impact the facility will pose on the Township when it is complete. The Master Plan shall be submitted with the preliminary plan in accordance with the plan requirements section of the Township Subdivision and Land Development Ordinance, as amended.
2. Impervious coverage for the proposed use shall not exceed the maximum lot coverage standard of the applicable zoning district.
3. Buildings or structures shall be located no closer than fifty (50) feet from any lot boundary or one hundred (100) feet from any residential property line.
4. Lighting shall be in accordance with Section 1301.F.

B. Commercial Recreation Uses. The standards under this subsection shall apply to such privately established recreational uses as country clubs, golf, swim, and tennis clubs, and ice skating rinks.

1. The following aggregate minimum lot areas shall be required based on each proposed use:

Use	Minimum Site Area
Golf Course (per nine holes)	50 acres
Outdoor Swim or Tennis Club	15 acres
Indoor Tennis, Racquetball, Ice Rink	8 acres

2. Any structure, building, parking, storage loading, or paved areas, excluding foot and bicycle paths, and necessary access ways to a public street, shall not be located closer than fifty (50) feet to any lot line, and shall be screened from dwellings in accordance with subsection A, above, when located within or abutting a residential use or district.
3. Any permanent outdoor facility including tennis courts and swimming pools which concentrates activities shall be set back a minimum of one hundred (100) feet from any property line and shall be screened from any residential district or use in accordance with subsection A, above.
4. Auxiliary uses, such as a restaurant or banquet facilities, shall be restricted in their use to employees, patrons, members and guests of the principal use.

SECTION 1227. RELIGIOUS USE OR PLACE OF WORSHIP.

Churches, place of worship, and other religious uses shall be subject to the following regulations:

- A. The minimum lot area shall be two (2) acres.
- B. Uses permitted under this category:
 1. Church, synagogue, or other place of worship.
 2. Religious school.
 3. Accessory uses, including the following:
 - a. Institutional classrooms or educational use.
 - b. Kitchen.
 - c. Gymnasium/recreational facility.
 - d. Day care center (commercial and non-profit) as per Section 1208.
 - e. Rectory or other lodging for minister, priest, rabbi, or similarly qualified individual.
 - f. Cemetery as per Section 1207.
- C. Accessory uses to a religious use and on the same lot as a primary religious use shall meet the following:
 1. Accessory uses shall meet area and bulk requirements of the zoning district in which they are located and shall be in accordance with this article.

2. Accessory uses shall be setback a minimum of fifty (50) feet from a residential use or district.
- D. Off-street parking facilities shall be in accordance with the provisions of Section 1304.
- E. Screening and landscaping shall be in accordance with the provisions of Section 1301.E.
- F. Lighting shall be in accordance with the provisions of Section 1301.F.

SECTION 1228. RESIDENTIAL CONVERSION.

The following regulations shall apply to the conversion of a single family dwelling to a dwelling containing a greater number of dwelling units:

- A. Site and architectural plans for the conversion of said dwelling shall be submitted to the Zoning Hearing Board, together with an application for a special exception. If two (2) or more families are to be housed above the ground floor, such plans shall bear the approval of the Pennsylvania Department of Labor and Industry as required by law.
- B. Such plans shall provide adequate and suitable parking or storage space for at least two (2) automobiles per dwelling unit.
- C. The yard and building area requirements for the district in which the dwelling is located shall continue to apply to each dwelling unit. The applicable requirements shall not be reduced and the number of units shall not exceed what is permitted according to the acreage requirements of the particular zoning district.
- D. There shall be no external alterations of the building except as may be necessary for reason of safety; fire escape and outside stairways shall, where practical, be located to the side or rear of the building.
- E. The Zoning Hearing Board shall specify the maximum number of families permitted to occupy a particular building.
- F. Each resulting dwelling unit shall have a minimum floor area of eight hundred (800) square feet.
- G. Where public sewage disposal is not utilized, the applicant shall submit to the Township a permit for an on-site sewage disposal system issued by the Chester County Health Department, certifying the sewage disposal facilities are adequate for the projected number of residents.

SECTION 1229. RIDING ACADEMY OR STABLE.

Riding academies or stables shall be subject to the following regulations:

- A. The minimum size of a riding academy shall be four (4) acres for the first horse and one (1) acre for each additional horse which is maintained, stabled or pastured on the premises.

- B. No facility including rings, jumping or show areas shall be closer than fifty (50) feet to street line and residential uses or districts, and thirty (30) feet to other property lines.
- C. The entire periphery of all grazing areas must be enclosed by a well-maintained fence.
- D. In the event a bridle path crosses a road, the property owner shall be responsible for posting a sign indicating such use, in compliance with standard procedure and regulations for road signs and signage.

SECTION 1230. SELF STORAGE/MINI-WAREHOUSE.

Self storage uses shall be subject to the following regulations:

- A. Access shall be from a collector or arterial street as defined by the Township Comprehensive Plan.
- B. The minimum aisle width between buildings shall be twenty (20) feet.
- C. The use shall be subject to review by police and fire officials regarding security and fire protection.
- D. Storage of explosive, radioactive, toxic, highly flammable, or otherwise hazardous materials shall be prohibited.
- E. No business activity other than leasing of storage units shall be conducted on the premises.
- F. All storage shall be within closed buildings built on a permanent foundation of durable materials. Trailers, box cars or similar impermanent or movable structures shall not be used for storage.
- G. Outdoor storage shall comply with the following requirements:
 - 1. Outdoor storage of automobiles, boats, and recreation vehicles is permitted provided they are screened so as not to be visible from adjacent streets, residential uses or residentially zoned land.
 - 2. A maximum of twenty (20%) percent of the total site area may be used for such outdoor storage.
 - 3. Stored vehicles shall not interfere with traffic movement through the complex.
 - 4. The storage facilities complex shall be surrounded by a fence at least eight (8) feet in height.
 - 5. Lighting shall be in accordance with the provisions of Section 1301.F.
 - 6. Screening when abutting a residential use or district shall be in accordance with the provisions of Section 1301.E.

SECTION 1231. SWIMMING POOLS.

Private swimming pools shall be subject to the following regulations:

- A. The pool is intended and is to be used solely for the enjoyment of the occupants of a principal use of the property on which it is located.
- B. Enclosed by a fence or wall so as to prevent uncontrolled access. Said barrier shall not be less than four (4) feet in height; constructed with no openings, holes, or gaps, except gates, larger than four (4) inches in any dimension; and shall be maintained in good condition. A dwelling, accessory building, or other structure may be used as part of such enclosure.
- C. All gates and doors opening through such enclosure shall be equipped with a self-closing and self-latching device for keeping such gate or door securely closed and latched at all times when not in use.
- D. A swimming pool and its accessory structures, including any walks or paved areas adjacent thereto, shall not be located in any required setback areas.

SECTION 1232. VETERINARY OFFICE/ANIMAL HOSPITAL/KENNEL.

- A. Veterinary Clinics and animal hospitals shall be subject to the following regulations:
 - 1. Minimum lot size shall be one hundred thousand (100,000) square feet with a minimum lot width of three hundred (300) feet.
 - 2. Minimum yard dimensions shall be: front yard, fifty (50) feet; each side yard, thirty (30) feet; and rear yard, one hundred (100) feet.
 - 3. Maximum coverage and height shall be: building coverage, ten (10%) percent; maximum height, thirty-five (35) feet; and rear yard, one hundred (100) feet.
 - 4. Each animal hospital shall have all outdoor exercise yards entirely fenced to prevent animals from leaving the property. Exercise yards shall be set back a minimum of one hundred (100) feet from front, side, and rear lot lines. All accessory buildings and structures shall be set back a minimum of twenty-five (25) feet from rear and side property lines.
 - 5. There shall be one (1) off-street parking space per employee, plus one (1) space per waiting room seat.
 - 6. There shall be no outdoor storage of materials unless screened from adjoining properties in accordance with the provisions of Section 1301.E.
- B. Kennels shall be subject to the following regulations
 - 1. Minimum lot size shall be five (5) acres with a minimum lot width of five hundred (500) feet.

2. Minimum yard dimensions shall be: front yard, one hundred (100) feet; each side yard, fifty (50) feet; and rear yard, two hundred (200) feet.
3. Maximum coverage and height shall be: building coverage, ten (10%) percent; maximum height, thirty-five (35) feet; and rear yard, one hundred (100) feet.
4. Each animal hospital, animal shelter or kennel shall have all outdoor exercise yards entirely fenced to prevent animals from leaving the property. Exercise yards shall be set back a minimum of two hundred (200) feet from front, side, and rear lot lines. All accessory buildings and structures shall be set back a minimum of fifty (50) feet from rear and side property lines.
5. There shall be one (1) off-street parking space per employee, plus one (1) space per waiting room seat.
6. The sale of related products shall remain accessory to the kennel, and shall occupy no more than twenty-five (25%) percent of the floor area of the principal building.
7. There shall be no outdoor storage of materials unless screened from adjoining properties in accordance with the provisions of Section 1301.E.
8. Lighting shall be in accordance with the provisions of Section 1301.F.
9. Screening when abutting a residential use or district shall be in accordance with the provisions of Section 1301.E.

SECTION 1233. WOODLAND, FOREST, SCENIC, OR WILDLIFE PRESERVE.

Forests, scenic, or wildlife preserves shall be subject to the following regulations:

- A. No building shall be permitted anywhere on the premises, with the exception of one (1) maintenance shed with a maximum floor area of four hundred (400) square feet.
- B. No feeding or watering area shall be closer than fifty (50) feet to any property line or closer than one hundred (100) feet if property is adjacent to a residential, commercial or industrial district. No domesticated animal shall be maintained, stabled or pastured on the premises. No fences or other barricades shall be erected for that purpose.

SECTION 1234. JUNKYARDS OR SALVAGE YARDS

The following provisions shall apply to a junkyard or salvage yard operation:

- A. The minimum lot size serving as a junkyard shall be 10 acres. The area serving to meet the minimum tract size shall be undivided by streets, watercourses, or rights-of-way. No part of the operation shall be located within the Floodplain Conservation Overlay District or located such that contaminants from the operation can seep or flow into a stream or other body of water.

B. Perimeter setbacks and buffering.

1. The perimeters of a junkyard or salvage yard shall have a landscaped setback as follows:

Adjacent Use or District	Minimum Depth of Landscaped Setback
External public roads	60 feet
Commercial use	60 feet
Residential use or district	100 feet

2. The area where junk and any other material is stored outside shall be enclosed with a wall or fence, at least eight feet in height, and which is designed and constructed of materials as approved by the Township so as to be at least 90% solid or opaque. Wherever the use abuts a public road or residential use or district, vegetative screening shall be provided outside of the fence consistent with the requirements of Section 1301.E of this Ordinance.

- C. The portion of the tract serving as a junkyard shall be located on lands with less than 15% slope.
- D. The maximum building coverage shall not exceed 10%.
- E. The maximum lot coverage, including buildings, structures, and storage of materials, shall not exceed 60%.
- F. Materials shall not be stacked or piled so as to reach a height in excess of eight feet from the ground.
- G. The Applicant shall demonstrate to the satisfaction of the Board of Supervisors that adequate provisions will exist for safe and efficient access to all parts of the premises for fire-fighting and other safety or emergency purposes. No more than two adjoining rows of junked cars shall be stored together.
- H. Waste generated by the junkyard operation shall be managed in accordance with all applicable Township Ordinances and Federal and State Regulations, including the Solid Waste Management Act, the Clean Streams Law, and the Air Pollution Control Act of the Commonwealth of Pennsylvania.
1. Automotive fluids (including gasoline, oil, antifreeze, brake, transmission fluids, and similar fluids), freon, and other flammable or toxic substances shall be removed from any junk or other items stored on the premises and shall be properly containerized and stored. Such materials shall not be released into the air or deposited on or into the ground or watercourses and shall be transported and disposed of or recycled in accordance with applicable state and federal regulations.

2. Automotive batteries shall be removed from junked vehicles and properly stored until they are disposed of or recycled.
 3. Removal of such fluids, batteries, and other hazardous materials shall take place on an impervious surface where they can be properly contained without danger of spilling or being transported into the ground.
- I. No junk or other material shall be burned on the premises. Each junkyard shall have available in proper working condition equipment that will control, contain, and suppress fires or other hazards.
 - J. Outdoor tire storage piles shall not exceed 50 tires. In addition, when whole or processed tires are stored outdoors, each waste tire pile shall meet the following requirements:
 1. Piles shall not cover a surface area of greater than 400 square feet.
 2. Corridors of at least 35 feet in width shall be maintained as firebreaks on all sides of tire piles. No point in the pile shall be more than 25 feet from a firebreak. Firebreaks shall be kept free from obstructions that could limit access in the event of an emergency, and vegetation shall be maintained below six inches.
 - K. No garbage or other organic waste liable to give off a foul odor or to attract vermin or insects shall be kept on the premises.
 - L. All junk, including tires, shall be stored or arranged to prevent accumulation of water. Outdoor storage shall be conducted to control mosquito propagation during warm weather. Controls may include use of tarps, indoor storage screens, or spraying. The Applicant shall demonstrate to the satisfaction of the Board of Supervisors that all proposed controls and operations will be sufficient to preclude public health and safety concerns.
 - M. Prior to issuing of a zoning permit by the Zoning Officer, the applicant shall provide sufficient information for the Zoning Officer to determine that all applicable Federal, State, County, and Township requirements and regulations can be met by the proposed operation. Prior to the issuance of the permit, the applicant shall also provide evidence that all applicable conditions set by the Board of Supervisors during the Conditional Use approval process have been met.
 - N. A license shall be required by the Township annually for any junkyard. License application forms and fees shall be as prescribed by Resolution of the Board of Supervisors. It shall be unlawful for any person to construct, maintain, alter, extend, or operate a junkyard in Elk Township unless and until all permit and licensing requirements have been met. The licensee shall further allow inspection of the business premises by the Township or its appointed representative at any reasonable time.

ARTICLE XIII
GENERAL REGULATIONS

SECTION 1300. APPLICABILITY.

The provisions of this Article represent regulations and standards that are common to all zoning districts. Unless exempted by applicable provisions or specified limitations, the following General Regulations shall apply to all by-right, special exception, or conditional uses. In the event that the provisions of this Article conflict with other provisions of this Ordinance, the more restrictive provisions shall apply.

SECTION 1301. DESIGN STANDARDS.

A. **Open Space.** Open space required per the provisions of this Ordinance shall meet the following requirements:

1. Accessibility. Not less than twenty-five (25%) percent of the minimum required open space land shall be in a form usable to and accessible by the residents, such as a central green, neighborhood squares or commons, recreational playing fields, walking trails, footpaths, community park, or any combination of the above. In addition, no more than fifty (50%) percent of the minimum required open space land may be comprised of active recreation facilities such as playing fields, tennis courts, etc. Open space land shall not be used for residential lots, except as provided below.

2. Location. The required open space land shall be located and designed to add to the visual amenities of villages and hamlets and to the surrounding area, by maximizing the visibility of internal open space as terminal vistas at the ends of streets (or along the outside edges of street curves), and by maximizing the visibility of external open space as perimeter greenbelt land. Greenbelt land shall be designated to provide buffers and to protect scenic views as seen from existing roadways and from public parks. The Township may require open space land to be designed to allow the continuation of an existing or proposed trail or the coordination with other existing or proposed open space areas.

3. Contiguity. Where adjacent parcels contain existing or proposed open space areas, either publicly owned or otherwise deed restricted as permanent open space, common open space shall be located contiguously to this adjacent open space whenever possible to create larger open space networks. The burden shall be on the applicant to either locate the common open space contiguous to this adjacent open space or to demonstrate, to the Township's satisfaction, that there is no feasible way to so locate said common open space.

4. Views of Houselots. Views of houselots from exterior roads and abutting properties should be minimized by the use of changes in natural, undisturbed topography, existing vegetation, or additional landscape buffering. This land shall generally remain undivided and may be owned and maintained by a homeowners association, land trust, a conservation organization recognized by the Township, or by a private individual (typically as part of the original farmhouse).

5. Buffers for Adjacent Public Parkland. Where the proposed development adjoins public parkland, a natural open space buffer at least one hundred and fifty (150) feet deep shall be provided within the development along its common boundary with the parkland, within which no new structures shall be constructed, nor shall any clearing of trees or understory growth be permitted (except as may be necessary for street or trail construction). Where this buffer is unwooded, the Board of Supervisors may require vegetative screening to be planted, or that it be managed to encourage natural forest succession through "no-mow" policies and the periodic removal of invasive species.
6. No portion of any building lot may be used for meeting the minimum required open space land. However, active agricultural land with farm buildings, excluding areas used for residences, may be used to meet the minimum required open space land.
7. Pedestrian and Maintenance Access. Pedestrian and maintenance access, excluding those lands used for agricultural or horticultural purposes, shall be provided to open space land in accordance with the following requirements:
 - a. Each neighborhood shall provide one centrally located access point per fifteen (15) lots, a minimum of twenty-five (25) feet in width; and
 - b. Access to open space land used for agriculture may be appropriately restricted for public safety and to prevent interference with agricultural operations.
8. Landscaping. All open space land areas that are not wooded or farmed shall be left in a natural state, or landscaped as required by the Board of Supervisors. Open space land areas shall not be left in a stripped and bare condition.
9. Management Plan. The applicant shall prepare a long-range management plan for the open space land. The management plan shall, at a minimum, describe how the open space land will be preserved as proposed in the site's design plan and how such necessary preservation activities will be funded. This may include a plan to lease the land to a farmer to create income for the homeowners association, a plan to keep the open space in a forested condition, a plan to transfer ownership of the land to the Township or other non-profit entity, or a plan to manage a recreational activity on the area.
10. Uses Permitted on Open Space Lands:
 - a. Conservation of open land in its natural state (i.e., woodland, fallow field, or managed meadow).
 - b. Agricultural and horticultural uses, including raising crops or livestock, associated buildings, excluding residences that are specifically needed to support an active, viable agricultural or horticultural operation. Specifically excluded are commercial livestock operations involving highly offensive odors. To encourage the retention of agricultural lands, the Township or homeowners association, may permit all or portions of the open space lands to be leased back to a farmer. Approval of the leaseback option shall be conditioned on

- appropriate agreements between the titleholder and the farmer, concerning permitted agricultural practices and use of the land in the event the agricultural activities cease.
- c. Pastureland or areas for horses.
 - d. Forestry in accordance with the provisions of Section 1103.E.5.
 - e. Common neighborhood uses such as village greens, commons, picnic areas, community gardens, trails, and similar low-impact passive recreational uses specifically excluding wheeled vehicles (except for agricultural vehicles), rifle ranges and golf courses.
 - f. Active non-commercial recreation areas, such as playing fields, playgrounds, courts, provided such areas do not consume more than half of the minimum required open space land or five acres, whichever is less. Playing fields, playgrounds, and courts shall not be located within fifty (50) feet of abutting properties.
 - g. Individual water supply and sewage disposal systems when in accordance with the standards of the Township Subdivision and Land Development Ordinance, and stormwater management areas designed and landscaped to replicate naturalistic conditions and available for use as an integral part of the open space. Community sewage treatment or disposal systems shall not be permitted.
 - h. Easements for drainage, access, sewer or water lines, or other public purposes.
 - i. Underground utility rights-of-way. Aboveground utility and street rights-of-way may traverse conservation areas but shall not count toward the minimum required common open space.
 - j. Dwelling and accessory structures associated with a farmstead that occupied the site on the effective date of this Ordinance, as permitted in subsection H below.
11. Preservation of Farmstead. The applicant may choose to preserve a farmstead, containing a farmhouse and associated agricultural structures as part of the open space, provided that the resulting farmstead lot shall be deed restricted from further subdivision and no further dwellings shall be permitted on the farmstead.
12. Ownership and Maintenance of Open Space Land and Common Facilities.
- a. Restrictions on Open Space Land. No development shall be permitted in open space areas at any time, except as permitted herein.
 - b. Ownership Options. Ownership of common facilities may be in accordance with subsections 1-6, below, however, open space land shall be initially offered for dedication to the Township. Common facilities shall not be transferred to another entity except for transfer to another form of ownership permitted under

this Section, provided that there is no change in the common facilities or in the open space ratio of the overall development:

- 1) Fee Simple Dedication to the Township. The Elk Township Board of Supervisors 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 Board of Supervisors 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 the Pennsylvania Uniform Condominium Act of 1980, as amended. All open land and common facilities shall be held as "common element."
- 3) Homeowners Association: Common facilities may be held in common ownership by a homeowners association, subject to all of the provisions for homeowners' associations set forth in applicable Pennsylvania regulations. In addition, the following standards shall be met:
 - a) The applicant shall provide the Board of Supervisors with 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 operated 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 and mandatory for lot owners of dwelling units therein and their successors in title, who shall have joint and undivided interests in any common areas;
 - 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 is his dues. Such dues shall be paid with all 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 of common facilities must be given to all members of the association and to

- the Board of Supervisors not less than thirty (30) days prior to such event;
- g) The association shall have adequate staff to administer, maintain, and operate such common facilities; and
 - h) The terms, conditions and content of the Homeowners Association Document agreement shall be reviewed and approved by the Township Solicitor.
- 4) Dedication to Private Conservation Organization or to the County. With permission of the Board of Supervisors, 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 municipality and is a bona fide conservation organization intended to exist indefinitely;
 - b) The conveyance contains appropriate provisions for proper reverter or re-transfers 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 Board of Supervisors is given the ability to enforce these restrictions;
 - d) A maintenance agreement acceptable to the Board of Supervisors is established between the owner and the organization; and
 - e) A satisfactory maintenance agreement shall be reached between the owner and the Board of Supervisors.
- 5) Dedication of Easements to the Township. The Board of Supervisors 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, homeowners' association, or private conservation organization while the easements are held by the Board of Supervisors. In addition, the following regulations shall apply:
- a) There shall be no cost of acquisition to the Board of Supervisors; and
 - b) Any such easements for public use shall be accessible to the residents of the Township.

- 6) Private Ownership of Designated Open Space.
 - a) Designated open space may be retained in ownership by the applicant in order to continue as an active farm operation in accordance with all standards and criteria for designated open space herein.
 - b) The designated open space shall be restricted from further subdivision or land development by deed restriction, conservation easement, or other agreement or form acceptable to the Township and duly recorded in the office of the Recorder of Deeds of Chester County, Pennsylvania and shall be noted on the subdivision plan of record.
 - c) All or portions of the designated open space may be included within an individual farm lot where deemed appropriate by the Board of Supervisors. The Board of Supervisors may require that responsibility for maintenance of the privately owned designated open space be conferred upon the owner(s) of the said open space.

13. **Maintenance.** Unless otherwise agreed to by the Board of Supervisors, the cost and responsibility of maintaining common facilities and open space land shall be borne by the property owner, condominium association, homeowners' association, or conservation organization.
 - a. The applicant shall, at the time of preliminary plan submission, provide a plan for perpetual maintenance of open space lands and operation of common facilities in accordance with the following requirements:
 - 1) 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.);
 - 2) 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;
 - 3) At the Board of Supervisors' discretion, the applicant may be required to escrow sufficient funds for the maintenance and operation costs of common public facilities for up to one year; and,
 - 4) Any changes to the maintenance plan shall be approved by the Board of Supervisors.

- b. 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 Board of Supervisors may assume responsibility for maintenance, in which case any escrow funds may be forfeited and any permits may be revoked or suspended.
- c. The Board of Supervisors or its authorized representative may enter the premises and take corrective action, including maintenance. The costs of such corrective action may be charged to the property owner, condominium association, homeowners association, conservation organization, or individual property owners who make up a condominium or 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 municipality in the office of the Prothonotary of Chester County.

B. Utilities, Sewage Disposal, and Water Supply.

1. Utilities.

- a. When practicable, utilities shall be placed underground.
- b. The applicable lot area and bulk regulations of this Ordinance shall apply to any proposed building or extension used by a public utility corporation, unless upon petition of the corporation, the Pennsylvania Public Utility Commission (PUC) shall decide that the situation of the building in question is necessary for the welfare of the general public.

2. Sewage Disposal. All uses shall be served by a sewage system consistent with the policies and recommendations of the 1970 Chester County Sewage Facilities Plan, as amended. In addition, sewage facilities shall be subject to the following regulations:

- a. The design and installation of all sewage systems shall be subject to the approval of the Pennsylvania Department of Environmental Protection (PADEP) and the Chester County Health Department (CCHD) as well as comply with all application regulation thereof.
- b. The design standards set forth in the Township Subdivision and Land Development Ordinance, as amended, shall apply.
- c. The design and installation of all sewage systems shall be subject to the approval of the Township Engineer, Planning Commission, and Board of Supervisors.

3. Water Supply. Where available within the Township, proposed uses within the R-1 Residential, R-H Residential, and C-1 and C-2 Commercial districts shall connect with public water service. Community water systems are acceptable for residential design options in the R-2 District.

4. Stormwater Management and Erosion Control. All uses shall meet the regulations of the Subdivision and Land Development Ordinance, as amended, and applicable provisions of this and other Township Ordinances, as well as federal, state, and County provisions or requirements, to control stormwater runoff and mitigate sedimentation and erosion problems.

C. Access and Traffic Control.

In order to minimize traffic congestion and hazards and control street access, the following regulations shall apply:

1. Unless clearly impractical, lots which abut two (2) or more streets shall have direct access only to the street of lesser function, as classified in the Township Comprehensive Plan (as amended).
2. Where lots are created having frontage on major collector and minor collector streets as classified by the Township Comprehensive Plan (as amended), any proposed development street pattern shall provide reverse frontage to a lower functioning road, or to local streets within the subdivision unless clearly impractical due to lot configuration or topography. Residential developments which propose streets with reverse frontage lots shall buffer the reverse frontage lot along the rear yard lot line from the major street.
3. Each use with less than one hundred (100) feet of street frontage shall not have more than one (1) ingress and egress lane to such frontage and shall have no more than two (2) accessways to any one (1) street for each four hundred (400) feet of street frontage. A common access point for two (2) or more uses is encouraged, where practical, to minimize vehicular access points along streets other than local streets and to cut down on entrance to a busy street.
4. Every building and lot shall have access to a public street. Unless clearly impractical, all residential lots shall have direct access only to a local access street.
5. All vehicular accessways to any public street shall be located at least one hundred (100) feet from any intersection of a street, measured from centerline to centerline, and shall be designed in a manner conducive to safe ingress and egress.
6. Provisions shall be made for safe and efficient ingress and egress to and from public streets, without undue congestion or interference with normal traffic flow within the Township. The developer shall be responsible for the design and construction, and the costs thereof, of any necessary traffic control device and/or highway modifications required by the Township and the Pennsylvania Department of Transportation (PennDOT).
7. Where any commercial, industrial, institutional, or high density residential use has vehicular access to and from an arterial or collector street, all vehicular entrances and exits shall be provided with deceleration and acceleration lanes as recommended or required by the Township Engineer and the Pennsylvania Department of Transportation (PennDOT).

8. Obstructions to Vision. Clear site distance shall be maintained for all vehicles as per the following criteria:
- a. On any lot, no wall, fence, or other obstruction shall be erected, allowed, or maintained, and no hedge, tree, shrub, or other vegetation shall be planted or exist which dangerously obscures the view of approaching traffic along streets or at intersections.
 - b. On a corner lot, nothing shall be erected, placed, or allowed to grow which dangerously obscures the view within a clear sight triangle defined by the following:
 - 1) Above the height of two and one-half (2 1/2) feet and below the height of twelve (12) feet measured from the centerline grades of the intersecting streets; and
 - 2) Within the area bounded by the centerline of intersecting streets and a line joining points on these centerlines seventy-five (75) feet from an intersection of centerlines of such streets.
 - c. Driveway and street entrances onto public streets shall be maintained in such a manner that a clear view is obtained in both directions according to the following standards:

Posted Speed of Public Road, MPH	Minimum Sight Distance In Feet*
20	200
25	250
30	300
35	350
40	400
45	450
50	500
55	550

*Measured ten (10) feet from the edge of the cartway of the public street.

D. Interior Circulation.

The following provisions shall apply in the design of access aisles and driveways:

- 1. Interior drives shall be designed so as to prevent blockage of vehicles entering or leaving the site as well as the backing of any vehicle onto a street and shall be clearly marked by signs, curbing, or lines. Drives may be one-way or two-way. Areas designed for loading and unloading, refuse collection, fuel delivery and other service vehicles, shall be separate and arranged so as to prevent the blocking or interfering with accessways, the use of automobile parking facilities or pedestrian ways, and shall have adequate turn-around surface so egress to the street is in a forward direction.

2. Accessways, parking areas, and loading areas shall have clearly defined parking bays and traffic circulation lanes designated by markings, curbs, barriers and/or landscaped islands, so that operators of vehicles intending to patronize such parking areas shall not impede traffic as a result of any confusion as to location of entrances and exits and manner of reaching them.
3. All interior drives and accessways associated with commercial, institutional, and accessory uses shall be paved with an approved all-weather surface, and shall be graded, properly drained and maintained in a good condition. Interior drives shall have a maximum grade of eight (8%) percent measured along the centerline, for a distance of not less than twenty-five (25) feet from the street right-of-way line. Beyond that point, interior roads and drives shall have a maximum grade of ten (10%) percent.
4. Commercial, industrial, institutional or conditional uses with parking areas for ten (10) or more vehicles shall have clearly defined parking bays, accessways, and traffic circulation lanes designated by appropriate markings, curbs, barriers and/or planted strips.
5. Interior drives shall be clearly marked by adequate painting or marking with curbing and signs, so that operators of vehicles intending to patronize such parking lots shall not unduly impede traffic as a result of any confusion as to location of entrances and exits and manner of reaching them.
6. Common or shared access driveways to parking and loading areas are permitted and encouraged provided landowners shall submit a site plan and agreement indicating the extent of joint use and maintenance responsibility.
7. Minimum interior drive cartway widths with no abutting parking:

Use	One Lane One Way Drive	Two Lane Two Way Drive
Residential	10 Feet	18 Feet
Commercial/Office	11 Feet	22 Feet
Industrial	12 Feet	25 Feet

8. Convenient and logical walkway connections for pedestrians shall be provided between the entrances of a principal building and its required parking spaces. Maximum separation of pedestrian and vehicular routes shall be encouraged for pedestrian safety.

E. Landscaping and Screening.

The following provisions shall apply:

1. A completely planted visual barrier, or landscape screen shall be provided and continually maintained between any use to which this standard is applied under the following circumstances:
 - a. Where a proposed commercial or institutional use abuts an existing residential use or residential district.

- b. Where any proposed multi-family residential use abuts an existing single family or two (2) family dwelling.
 - c. Any other instance where screening is required by this Ordinance or by the Township Board of Supervisors.
2. Screening shall comply with the following requirements:
- a. The portion of the tract undergoing development that abuts a use or district intended to be screened shall be provided with a minimum of thirty (30) foot planting strip which will act as an effective screen separating uses. The planting strip may be included in private yard space and shall be based upon the following criteria:
 - 1) Plant materials chosen to satisfy screening and landscaping requirements or to supplement existing vegetation should be of a native species indigenous to the area. A variety of plant materials should be installed to promote bio-diversity, and reflect the rural character of the area. Vegetative screening shall include a variety of evergreen species (but no more than eighty (80%) percent which are indigenous to the area so as to provide a year round visual barrier.
 - 2) Vegetation chosen to satisfy screening and landscaping requirements shall be from hardy and healthy stock, resistant to insects and disease, and pollution tolerant. Any trees and shrubs which are selected to satisfy screening and landscaping requirement shall meet minimum standards for size at the time of planting:

Shrubs: 30 inches height from grade
Trees: 3 inch minimum diameter at breast height (DBH)
 - 3) Vegetative screening shall incorporate earthen mounds or berms, wherever necessary, to improve sound as well as visual buffering, and shall be broken at points of vehicular or pedestrian access.
 - 4) Plant materials used in the screen planting shall create a continuous visual screen in the buffer areas within three (3) years of initial planting.
 - 5) No plantings shall be placed with their center closer than five (5) feet from the property line of the tract.
 - 6) All existing vegetation within the required planting strip equal to or greater than three (3) inches diameter at breast height (DBH) and/or eight (8) feet in height shall be preserved wherever possible and shall be incorporated into the screening and landscaping plan.
 - 7) Screening shall be designed so as not to obstruct sight distances at intersections or driveways.

- 8) Vegetative screens shall be perpetually maintained during the period the principal use causing the need for screening is in operation. Any plant material which does not survive shall be replaced within six (6) months.
- 9) Screening design, including the type of plant materials to be used, spacing of plant materials, and the use and location of earthen berms, shall be subject to review and approval by the Board of Supervisors upon the recommendation of the Planning Commission.
 - b. Water towers, storage tanks, processing equipment, fans, skylights, cooling towers, Communication towers, cellular telephone towers, vents and any other structures or equipment which rises above the roof line shall be architecturally compatible or effectively shielded from view from any public street by an architecturally sound method which shall be approved, in writing, by the Township before construction or erection of said structures or equipment.
3. Any part or portion of a site which is not used for buildings or other structures, loading and parking spaces and aisles, sidewalks and designated storage areas shall be planted and maintained with landscaping.
4. Except for single family and two (2) family dwellings, any part or portion of a site which is not used for loading and parking spaces, aisles, sidewalks and designated storage areas shall be landscaped according to an overall plan, prepared and approved as part of the development plan or shall be left in its natural state. A replacement program for non-surviving plant material should be included.
 - a. General Requirements of Landscape Plans.
 - 1) Landscaping shall be installed and maintained in accordance with a Landscape Plan prepared by a qualified landscape architect or architect and approved by the Township Board of Supervisors. The Landscape Plan shall depict all proposed plantings as required within buffer areas in the form of a buffer planting area, and in other landscaped areas which relate to, complement, screen or accentuate buildings, roads, parking areas, sidewalks, walkways, sitting areas, service or maintenance structures, courtyards, and other site features.
 - 2) The Landscape Plan shall be based on and reflect the following:
 - a) Respect for and incorporation of existing topographic, landscape and other natural features.
 - b) The functional and aesthetic factors which relate to the tract and to the principal and accessory buildings and other structures.
 - c) Enhancing views from and within the tract.

- d) Screening and complementing proposed buildings and other structures.
 - e) Creating visual interest for the users and/or residents of the proposed project.
 - f) Using plant materials which are hardy and acclimated to the conditions at the tract and within the Township.
- 3) The Landscape Plan shall include notes, diagrams, sketches, or other depictions to present the consideration and analysis of the following:
- a) An analysis of the site in terms of the existing views to and from the areas which are proposed for development; existing topography and vegetation conditions; and other existing conditions which are relevant to the site.
 - b) An analysis of proposed planting and other landscaping needs as related to screening views of buildings; screening buildings and sections of buildings; screening parking areas and other areas where vehicles are parked; screening storage areas; screening site utilities; and other appropriate types of screening.
 - c) The consideration of locations where plantings and other landscaping are needed to provide visual interest; define outdoor spaces; complement the proposed architectural style; and achieve other functional and aesthetic requirements for buffer areas.
 - d) Existing trees shall be preserved wherever possible. The protection of trees twelve (12) inches or more in caliper (measured at a height four and one-half (4 1/2) feet above the original grade) shall be a factor in determining the location of buildings, open space, structures, underground utilities, walks and paved areas. Areas in which trees are to be preserved shall remain at original grade level and in an undisturbed condition.
- b. Design Criteria for Landscape Plans.
- 1) Planting shall be installed and maintained in the buffer areas, to form a continuous visual buffer. In addition to groundcovers and evergreen shrubs, the buffer planting strip shall be comprised of evergreen trees which are a minimum of eight (8) feet in height at the time of planting and deciduous trees with a minimum diameter of three (3) inches at breast height and shall be spaced in two (2) alternating rows on ten (10) foot centers. In the event such plantings do not alone provide a continuous visual buffer, the plantings shall be placed upon a berm at a height from three (3) to five (5) feet to increase their effectiveness.

- 2) The outer perimeter of all parking areas shall be screened. Effective screens may be accomplished through the use of plant materials, fencing or walls, and/or mounding through the use of earthen berms.
 - 3) Parking lots shall be landscaped as required in Section 1301.E.
 - 4) Landscaping shall be provided in association with each principal building in accordance with the following criteria:
 - a) A combination of evergreen and deciduous trees and shrubs shall be used as "foundation" plantings, i.e., plantings to be installed in reasonably close proximity to the facades.
 - b) At least one (1), three and one-half (3 1/2) to four (4) inch caliper specimen deciduous tree of eleven (11) to thirteen (13) feet in height at the time of planting; and one (1) eight (8) to ten (10) foot specimen evergreen tree shall be planted for every fifty (50) feet of length of building facade. These specimen trees shall be clustered or grouped to provide a pleasing, naturalistic effect and existing trees to be retained may be utilized to satisfy this requirement.
 - c) Five (5) evergreen and/or deciduous shrubs shall be planted for every twenty (20) feet of length of building facade.
 - d) Trees and shrubs shall be grouped in accordance with specific needs and objectives.
 - 5) Other landscaping, including trees, shrubs, and groundcovers, shall be provided along walkways, in courtyards, around sitting areas, at the entrance to the site, and in other highly visible locations, especially on the outer side of any internal access roads which are visible from a public-street which may adjoin a tract, at the entrance to buildings, and around structures used for service, storage or maintenance purposes.
 - 6) Shrubs shall not be placed closer than five (5) feet from any property line, and trees shall not be closer than ten (10) feet.
 - 7) The location, type, size, height and other characteristics of landscaping shall be subject to the review by the Planning Commission and approval of the Township Board of Supervisors.
- c. Minimum Standards for the Quality and Maintenance of Plant Material.
- 1) Existing vegetation, such as wood lots, hedgerows and trees with a caliper of two (2) inches or more at a height of three (3) feet or vegetation listed on the Pennsylvania Natural Diversity Inventory, should be preserved wherever possible and incorporated into screening

and landscaping plans. Such trees may be credited toward screening and landscaping requirements.

- 2) Trees and shrubs shall be typical of their species and variety, have normal growth habits; be well developed; and have densely foliated branches and vigorous, fibrous root systems.
 - 3) Trees and shrubs shall be free from defects and injuries and certified by appropriate federal and state authorities to be free from diseases and insect infestations.
 - 4) Trees and shrubs shall be freshly dug and nursery grown. They shall have been grown under climatic conditions similar to those in the locality of the project or properly acclimated to the conditions of the locality of the project.
 - 5) Plant materials chosen to satisfy screening and landscaping requirements or to supplement existing vegetation should be native to the area. A variety of plant materials should be installed to reflect the diversity of the local ecology. An approved tree list is included in subsection 1301.D.7, below.
5. All mechanical equipment, not enclosed in a structure, shall be fully and completely screened pursuant to the screening requirements in subsection 1301.E.2, above. Such screening shall be subject to site plan and architectural review by the Township.
6. Landscaping within any parking area that provides more than ten (10) parking spaces shall be subject to the following provisions:
- a. Off-street parking areas shall be landscaped to reduce wind and air turbulence, heat and noise, and the glare of automobile lights; to reduce the level of carbon dioxide; to provide shade; to improve stormwater drainage problems; to replenish the groundwater table; and to provide for a more attractive setting.
 - b. The interior of each parking lot shall have at least one (1) three (3) inch caliper deciduous shade tree for every five (5) parking spaces if there are no existing shade trees to satisfy this requirement. Shrubs and other plant materials are encouraged to be used to complement the trees, but shall not be the sole contribution to the landscaping. These trees shall be in addition to those required as an effective screen. Trees selected for landscaping in parking areas shall be of a species proven to be salt and dust resistant.
 - c. The landscaping and planting areas shall be reasonably dispersed throughout the parking lot, except where there are more than twenty (20) spaces in which the following shall apply:
 - 1) Landscaped areas at least ten (10) feet wide shall be provided around the periphery of parking areas. Such areas shall, at a minimum, extend the full length and width of the parking areas, except for necessary

accessways, to prevent the encroachment of moving vehicles into parking areas.

- 2) Landscaped islands between every ten (10) parking spaces or at the end of each parking row, whichever is less, shall be provided and shall be the length of the parking spaces in the row and at least ten (10) feet in width.
- 3) There shall be a planting strip incorporated for every four (4) rows of parking spaces. Such planting strip shall run parallel to parking rows and shall have a minimum width of ten (10) feet if double loaded, or seven (7) feet if single loaded.

d. Existing plant material and trees with a caliper of six (6) inches or more shall be preserved wherever possible during construction. Such existing plants may be credited toward the amount of required plantings.

7. Approved Plant Materials List.

a. Deciduous/Canopy trees. Required canopy tree plantings shall be selected from the following list or a species hardy to the area. Trees marked with a (+) before their botanical name are native species and the use of these trees is encouraged.

Botanical Name	Common Name
<i>Acer campestre</i>	Hedge Maple
<i>Acer ginnala</i>	Amur Maple
+ <i>Acer negundo</i>	Box Elder
<i>Acer palmatum</i>	Japanese Maple
+ <i>Acer rubrum</i>	Red Maple
+ <i>Acer saccharum</i>	Sugar Maple
+ <i>Betula lenta</i>	Black Birch
+ <i>Betula nigra</i>	River Birch
<i>Carpinus betulus</i>	European Hornbeam
+ <i>Carya ovata</i>	Shagbark Hickory
<i>Crataegus phaenopyrum treeform</i>	Washington Hawthorn
<i>Crataegus viridis 'Winter King'</i>	Winter King Hawthorn
+ <i>Fagus grandifolia</i>	American Beech
<i>Fagus sylvatica</i>	European Beech
+ <i>Fraxinus americana</i>	White Ash
+ <i>Fraxinus pennsylvanica</i>	Green Ash
<i>Ginkgo biloba</i>	Ginkgo (male only)
<i>Larix kaempferi</i>	Japanese Larch
+ <i>Liquidambar styraciflua</i>	Sweet Gum
+ <i>Liriodendron tulipifera</i>	Tulip Tree, Yellow Poplar
<i>Metasequoia glyptostroboides</i>	Dawn Redwood
+ <i>Nyssa Sylvatica</i>	Black Gum, Sourgum
+ <i>Ostrya virginiana</i>	American Hophornbeam
<i>Phellodendron amurense</i>	Amur Cork Tree (male only)
<i>Platanus acerifolia</i>	London Planetree
+ <i>Platanus occidentalis</i>	Amercian Sycamore

+	<i>Quercus alba</i>	White Oak
	<i>Quercus coccinea</i>	Scarlet Oak
	<i>Quercus palustris</i>	Pin Oak
	<i>Quercus phellos</i>	Willow Oak
	Botanical Name	Common Name
+	<i>Quercus rubra</i>	Red Oak
+	<i>Sassafras albidum</i>	Sassafras
	<i>Sophora japonica</i>	Japanese Pagodatree
	<i>Tilia americana 'Redmond'</i>	Redmond Linden
	<i>Tilia cordata 'Chancellor'</i>	Chancellor Linden
	<i>Zelkova serrata</i>	Japanese Zelkova

b. Deciduous/Flowering trees. Required flowering tree plantings shall be selected from the following list or a species hardy to the area. Trees marked with a (+) before their botanical name are native species and the use of these trees is encouraged.

	Botanical Name	Common Name
+	<i>Amelanchier canadensis</i>	Shadblow Serviceberry
+	<i>Cercis canadensis</i>	Eastern Redbud
+	<i>Chionanthus virginicus</i>	Fringetree
+	<i>Cornus florida</i>	Flowering Dogwood
	<i>Cornus kousa</i>	Kousa Dogwood
	<i>Cornus mas</i>	Cornelian Cherry
	<i>Crataegus species</i>	Any Hawthorn species
	<i>Halesia carolina</i>	Carolina Silverbell
	<i>Koelreuteria paniculata</i>	Golden Rain Tree
	<i>Magnolia soulangeana</i>	Saucer Magnolia
	<i>Magnolia virginiana</i>	Sweetbay Magnolia
	<i>Malus species</i>	Any Crabapple species
	<i>Oxydendrum arboreum</i>	Sourwood, Sorrel Tree
	<i>Prunus cerasifera</i>	Purpleleaf Flowering Plum
	<i>Prunus kwanzan</i>	Kwanzan Cherry
	<i>Prunus sargentii</i>	Sargent Cherry
	<i>Prunus serrulata 'Kwanzan'</i>	Kwanzan Cherry
	<i>Prunus subhirtella var. pendula</i>	Weeping Higan Cherry
	<i>Pyrus calleryana 'Aristocrat'</i>	Aristocrat Pear
	<i>Pyrus calleryana 'Capital'</i>	Capital Pear
	<i>Pyrus calleryana 'Redspire'</i>	Redspire Pear
	<i>Pyrus calleryana 'Whitehouse'</i>	Whitehouse Pear
	<i>Stewartia koreana</i>	Korean Stewartia
+	<i>Viburnum prunifolium</i>	Blackhaw Viburnum

c. Evergreen trees. Required evergreen tree plantings shall be selected from the following list or a species hardy to the area. Trees marked with a (+) before their botanical name are native species and the use of these trees is encouraged.

Botanical Name	Common Name
<i>Abies concolor</i>	Concolor Fir

+	<i>Ilex opaca</i>	American Holly
+	<i>Juniperus virginiana</i>	Eastern Redcedar
+	<i>Kalmia latifolia</i>	Mountain Laurel
	<i>Picea abies</i>	Norway Spruce
	<i>Picea omorika</i>	Serbian Spruce
	Botanical Name	Common Name
	<i>Pinus nigra</i>	Australian Pine
+	<i>Pinus strobus</i>	White Pine
	<i>Pseudotsuga menziesii</i>	Douglas Fir
	<i>Taxus baccata</i>	English Yew
	<i>Taxus cuspidata</i>	Japanese Yew
+	<i>Tsugas canadensis</i>	Hemlock

d. Shrubs. Required shrubs shall be selected from the following list or a species hardy to the area. Shrubs marked with a (+) before their botanical name are native species and the use of these shrubs is encouraged.

	Botanical Name	Common Name
	<i>Euonymus alatus</i>	Winged Euonymus
	<i>Hamamelis vernalis</i>	Vernal Witch Hazel
+	<i>Hamamelis virginiana</i>	Common Witch Hazel
+	<i>Ilex glabra</i>	Inkberry
+	<i>Ilex verticillata</i>	Winterberry
+	<i>Kalmia latifolia</i>	Mountain Laurel
+	<i>Myrica pennsylvanica</i>	Bayberry
	<i>Pyracantha coccinea 'lalandi'</i>	Laland Firethorn
	<i>Rhamnus frangula</i>	Glossy Buckthorn
	<i>Taxus cuspidata 'capitata'</i>	Upright Yew
	<i>Taxus x media 'hicksii'</i>	Hicks Yew
+	<i>Viburnum dentatum</i>	Arrowwood Viburnum
	<i>Viburnum lantana</i>	Wayfaring Tree Viburnum
+	<i>Viburnum trilobum</i>	Highbush Cranberry

e. Street/urban trees. Required trees shall be selected from the following list or a species hardy to the area. Shrubs marked with a (+) before their botanical name are native species and the use of these shrubs is encouraged. Trees included on the following list tolerate urban conditions such as salt, drought, and soil compaction. The mature height is included for consideration in applications where overhead wiring is located.

	Botanical Name	Common Name	Size
+	<i>Acer rubrum</i>	Red Maple	75-100'
+	<i>Acer saccharum</i>	Sugar Maple	75-100'
	<i>Crataegus crusgalli</i>	Cockspur Hawthorne	20-35'
+	<i>Fraxinus americana</i>	White Ash	75-100'
+	<i>Fraxinus pennsylvanica</i>	Green Ash	75-100'
+	<i>Juniperous virginiana</i>	Eastern Red Cedar	50-75'
+	<i>Liquidambar styraciflua</i>	American Sweetgum	75-100'
+	<i>Nyssa silvatica</i>	Blackgum	50-75'

+	Ostrya virginiana	American Hophornbeam	35-50'
	Oxydendrum arboreum	Sourwood, Sorrel Tree	35-50'
+	Quercus alba	White Oak	50-100'
	Quercus coccinea	Scarlet Oak	50-90'
+	Sassafras albidum	Common Sassafras	35-50'

f. Street/urban shrubs. Required shrubs shall be selected from the following list or a species hardy to the area. Shrubs marked with a (+) before their botanical name are native species and the use of these shrubs is encouraged. Shrubs included on the following list tolerate urban conditions such as salt, drought, and soil compaction.

	Botanical Name	Common Name
+	<i>Ilex glabra</i>	Inkberry
+	<i>Juniperus communis</i>	Common Juniper
+	<i>Kalmia latifolia</i>	Mountain Laurel
+	<i>Myrica pennsylvanica</i>	Bayberry
+	<i>Viburnum dentatum</i>	Arrowwood Viburnum

F. Lighting.

The following provisions shall apply:

1. Applicability. Lighting facilities shall be required for loading, ingress and egress, and parking areas for multi-family residential, commercial, industrial and institutional uses. The Board of Supervisors may require lighting to be incorporated for other uses or locations where warranted. All lighting facilities shall have underground wiring.

2. Design.

a. Lighting facilities shall provide an illumination level within the following range of values:

1)	Pedestrian walkways	0.2-0.4 Footcandles
2)	Street intersections	0.6-0.8 Footcandles
3)	Multiple family common areas	0.6-0.8 Footcandles
4)	Direct illuminated signs	0.6-0.8 Footcandles
5)	Recreational/institutional activities	1.0-1.2 Footcandles
6)	Indirect illuminated signs	1.0-1.2 Footcandles
7)	Industrial parking areas	1.0-1.2 Footcandles
8)	Commercial parking areas	1.0-1.2 Footcandles

b. Lighting standards in parking areas shall not be located farther than one hundred (100) feet apart.

c. No lighting shall be permitted which shines directly into residential units, or results in glare beyond an angle of thirty (30) degrees from a vertical plane. All lighting shall be indirect and shielded from glare at the edge of any right of way or property line.

- d. All lighting shall be completely shielded from any public right-of-way.
 - e. All lighting incidental to multi-family residential, commercial, industrial, and institutional sites shall be subject to the approval of the Board of Supervisors and in accordance with the applicable provisions of the Township Subdivision and Land Development Ordinance (as amended).
3. Installation Responsibilities. Where required by this Ordinance, the applicant shall install or cause to be installed, all lighting fixtures. Fixtures shall be at the expense of the applicant, and shall be in accordance with a utility plan prepared by the applicant and approved by the Board of Supervisors and the appropriate utility company.
4. Residential Lighting. Lighting facilities on individual single family and other residential lots to illuminate private walkways, driveways, parking areas, patios, tennis courts, swimming pools or other areas shall be permitted under the following conditions:
- a. In no case shall the level of illumination be more than 1.0 footcandle.
 - b. No lighting shall be permitted which shines directly onto adjacent properties or any public right-of-way.
 - c. Where possible, indirect lighting and short post lighting along walkways or driveways should be incorporated to reduce glare.
5. Height Restrictions. The maximum height of lighting facilities erected within the Township shall be twenty-five (25) feet. Unless an applicant can prove to the satisfaction of the Board of Supervisors that this height limitation will impact the safe operation of the proposed use.
6. Where light fixtures are installed for security purposes for uses adjacent to a residential use or district, motion sensors and timers shall be installed to avoid dusk to dawn lighting.

G. Loading and Unloading.

In connection with any building or structure which is erected or substantially altered and which requires the receipt or distribution of materials or merchandise by trucks or similar vehicles. There shall be provided a sufficient number of off-street loading and unloading berths not less than the minimum requirements specified in this Section:

- 1. Location.
 - a. All loading and unloading areas shall be located on the same lot as the use to be served, and no portion of the vehicle shall project into any traffic lane. No loading from one truck to another or no loading area for vehicles of more than two (2) ton capacity shall be located closer than one hundred (100) feet from any residential district. No permitted or required loading area shall be located within fifty (50) feet of a property line.

- b. No loading facilities shall be constructed within any required yard areas. Loading facilities shall be located either on the side or rear of the building and properly screened according to Section 1301.E.
 - c. Such areas shall not be located between the building setback line and street line, and loading facilities shall not be visible from a street.
 - d. Off-street loading and unloading areas shall be provided with proper and safe access and separated and screened from other vehicular and pedestrian circulation. In any case, loading and unloading operations, including arrival and departure, shall not interfere with traffic circulation on public streets or with required off-street parking.
2. Size. Off-street loading and unloading areas shall be at least fifteen (15) feet wide, sixteen (16) feet vertical clearance, sixty (60) feet deep and shall have an adequate maneuvering apron.
 3. Access. Each off-street loading and unloading area shall be designed with appropriate means of vehicular access to an interior drive in a manner which will least interfere with traffic movements, and shall be subject to the approval of the Township. Such access shall have paved surfaces to provide safe and convenient access during all seasons.
 4. Surfacing. Loading and unloading spaces shall have paved, all-weather, dustless surfaces of sufficient load-bearing properties consistent with the intended uses.
 5. Space Allowed. Space allowed to any off-street loading berth shall not, while so allocated, be used to satisfy the space requirements of any off-street parking facilities or portions thereof. Required off-street parking space shall not be used for loading and unloading purposes except during hours when business operations are suspended.

H. **Storm Drainage.**

The following provisions shall apply:

1. For any new use or modification of an existing use, a plan shall be prepared to provide adequately for drainage of all buildings and paving, including grades, inlets and piping, or Best Management Practices (BMPs). The Plan shall be subject to review and approval by the Township Engineer and the Board of Supervisors and shall be in accordance with the provisions of the Subdivision and Land Development Ordinance.
 - a. Drainage shall discharge into natural swales and streams or existing drainage facilities, provided such facilities are considered adequate and in compliance with the Township's Subdivision and Land Development Ordinance.
 - b. Provisions shall be made where necessary to retard or limit surface water runoff so as to prevent excessive flows onto adjoining properties and onto streets and resulting erosion and sedimentation.

- c. The developer shall demonstrate to the satisfaction of the Township Engineer that no stormwater is artificially channeled into lands of the Township or lands of another, nor onto any public roads and that there will not by virtue of the development be any increase in runoff at the boundaries of the property.
2. The provisions of the Subdivision and Land Development Ordinance relating to stormwater management and sedimentation and erosion control are incorporated herein by reference and made a part hereof as fully as thought set forth at length.

SECTION 1302. GENERAL STANDARDS.

A. Fences and Walls.

The following regulations shall apply to all uses in all districts with the exception of agricultural uses of at least ten thousand (10,000) square feet:

1. No fence or wall, except a retaining wall, or a wall of a building permitted under terms of this Ordinance, over six (6) feet in height, shall be erected within any required yards, unless fifty (50) percent of the vertical plane of the fence or wall which exceeds six (6) feet in height shall not be solid.
2. No fence or wall shall be erected within a street right of way or shall obstruct vision at street intersections or along streets, in accordance with Section 1301.C.8.
3. Swimming pools shall be required to have a fence no less than four (4) feet in height. See regulations in Section 1231.
4. Fences or walls shall not be located in drainage easements or drainage swales that are part of an approved stormwater management plan as set forth in the Township Subdivision and Land Development Ordinance.

B. Interior Flag Lots.

Interior lots which have limited frontage on a street serving solely for access to interior lands (flag lots) shall be permitted only under the following conditions:

1. The lot must be connected to a road or street by a fee simple accessway at least twenty-five (25) feet wide. Such accessway shall be in addition to the minimum lot area for the district in which the lot is located.
2. No interior or flag lots shall be formed which access along the turn-around of a cul-de-sac street, or within two hundred (200) feet of the turn-around of a cul-de-sac street, street intersection, or driveway.
3. A minimum of four (4) road frontage lots shall be located between interior or flag lot accessways. No contiguous flag lot accessways shall be created.
4. Interior or flag lots are prohibited along collector and arterial roads as identified in the Elk Township Comprehensive Plan.

C. **Lots in More than One District.** Where a district boundary line divides a lot in single or joint ownership of record at the time such line is established, the regulations for the less restricted portion of such lot shall extend not more than thirty (30) feet into the more restricted portion, provided the lot has frontage on a street in the less restricted district.

D. **Projections into Required Yards.**

All required yard areas shall be unobstructed except as follows:

1. An arbor, open trellis, flagpole, unroofed steps and terraces, and accessory buildings or structures providing such a projection shall be no closer than the setback required for accessory buildings or structures in the district in which the lot is located.
2. Roofed terraces, patios, canopies or awnings not included in the area calculation of a building may project into any yard a maximum of fifteen (15) feet, provided such a projection shall be no closer than the setback required for accessory structures or buildings in the district in which the lot is located.
3. Radio towers and microwave antennas in accordance with the provisions of Section 1203 of this Ordinance. No antenna shall project above any roof a distance greater than the shortest distance from its base to any property line.

E. **Public Utility Installations and Service Buildings.** The location of any building or other installation for the purpose of servicing any public utility, except common or contract carriers may be located within any zoning district, subject to the following regulations:

1. The public utility shall file a plan indicating the location of all existing and proposed structures, buildings, or other installations within the Township.
2. Any building, structure, or other installation shall be subject to the design standards contained in this Article including those relating to screening, storage, landscaping and lighting.
3. Upon petition of the corporation, the Pennsylvania Public Utility Commission shall, after a public hearing, decide that the present or proposed situation of the building in question is reasonably necessary for the convenience or welfare of the public.

F. **Reduction of Lot Area.** No lot shall be so reduced that the area of the lot or the dimensions of the required open spaces shall be less than that specified in this Ordinance.

G. **Outdoor Storage.**

1. Outdoor storage shall be completely screened from view of any public right-of-way and any adjacent residential use. Screening shall consist of evergreen plantings, architectural screen or approved safety fence and be consistent with the provisions of Section 1301.E.
2. No storage shall be permitted within the front yard of any lot.

3. Outside storage of raw materials and/or finished products shall be permitted only within the buildable area of the lot behind the front building line of the principal building, and shall not exceed ten (10) feet in height.
 4. Outdoor storage facilities for fuel, raw materials, and products shall be enclosed with an approved safety fence compatible with the architectural and landscaping style employed on the lot. In addition to a fence, bulk storage tanks shall be enclosed by a moat or berm to contain potential spillage.
 5. All organic refuse or garbage shall be stored in tight, vermin-proof containers. In multiple family, commercial and industrial developments, garbage storage shall be centralized to expedite collection and enclosed on three (3) sides by an architectural screen or plantings.
 6. Outdoor storage or an outdoor storage area. No outdoor storage area shall be permitted within the required front yard, street right of way, except in case of a yard sale, public auction or garage sale. The storage area shall be screened from view from any public right of way or adjacent structure or use. On all lots of two (2) acres or less, no unlicensed vehicle, machinery, trailer, mobile home, boat or other similar items shall be stored outside within any required yard area. In addition, no more than two (2) such items shall be stored outside at any one time on the property.
- H. **Stripping of Topsoil, Excavation of Clay, Sand, Gravel, and Rock.** Such activities shall not be permitted accept under the following conditions.
1. As a part of the construction or alteration of a building or the grading incidental to such building.
 2. In connection with normal lawn preparation and maintenance.
 3. In connection with the construction or alteration of a street.
 4. In farming operations in those zoning districts where such use is permitted, provided sound soil conservation practices are observed.
 5. In no case shall topsoil be removed from within the boundaries of the Township.
 6. Please refer to the Soil Erosion and Sedimentation Section of the Elk Township Subdivision and Land Development Ordinance (as amended).
- I. **Yard Requirements for Corner Lots.** In the case of a corner lot, a front yard as provided for in the area and lot requirements for the various districts shall be required on each street on which the lot abuts. The remaining two (2) yards shall be side yards. Accessory buildings shall be located behind the setback lines of both streets.
- J. **Yard Requirements for Reverse Frontage Lots.** In the case of reverse frontage (double) lots, the minimum front yard setback shall be met along the street for which the United States Postal Service (USPS) mailing address is assigned. Accessory buildings shall be located behind the setback lines of both streets.

SECTION 1303. IMPACT STATEMENTS.

- A. **Applicability.** Impact statements shall be required for all preliminary applications for development when any of the following are proposed for a property:
1. Proposed access to an arterial or collector road.
 - a. Single-family residential of forty-five (45) dwelling units or more, or any other type of residential use of eighty (80) dwelling units or more;
 - b. Industrial development of fifty thousand (50,000) square feet of floor area or more;
 - c. Commercial development of ten thousand (10,000) square feet of floor area or more;
 - d. Office commercial development of seven thousand (7,000) square feet of floor area or more;
 - e. Institutional use of thirty thousand (30,000) feet of floor area or more; or
 - f. A trip generation rate of five hundred (500) ADT (average daily trips) as established by the most current Trip Generation Manual prepared in the Institute of Transportation Engineers, as amended, whichever is less.
 2. Proposed access to a local road.
 - a. Any non-residential and non-agricultural use.
 - b. Single-family residential development of twenty-five (25) dwelling units or more with only one (1) access point, or any other type of residential use of eighty (80) dwelling units or more with only one (1) access point; or
 - c. Any residential use generating more than one hundred (100) total peak hour trips.
- B. The requirements of a Fiscal Impact Analysis, subsection.C.4, below, shall apply only to uses permitted by conditional use or special exception and proposed zoning changes.
- C. The Board of Supervisors shall consider the impact on the Township and on the facilities and systems. When required by the Board of Supervisors, the applicant shall provide information, data, and studies needed to allow conclusive evaluation of the areas set forth applicable to the use proposed. The impact statement should be one (1) written document. Necessary maps, charts, etc., should be labeled as consecutively numbered exhibits and properly referenced throughout the text of the written document. The statement should be written in a manner and style that clearly focuses the information, data and analysis on the issues and objectives requested by the Board. The source of all data shall be appropriately documented.

1. Traffic Impact Study.

- a. Purpose. A traffic impact study shall be required for any development proposed pursuant to this Section. Such study shall enable the Board of Supervisors to assess the likely impact of a proposed development in the various components of the transportation system in the Township. The purpose of said study shall be to identify any traffic problems likely to generate access, road capacities, and off-site traffic flow, and to determine its impact on public transportation and pedestrian and non-vehicular circulation in the area.
- b. Professional Input. The applicant shall retain a Township-approved, qualified professional traffic engineer to prepare the traffic impact study. For purposes of this provision, a qualified traffic engineer shall be deemed any individual holding a degree from an accredited university in traffic engineering specialty, or any individual holding a university degree who also possesses membership in the Institute of Transportation Engineers, or any individual who conforms to the definition for a Municipal Traffic Engineer preferred in 67 Pa Code §§ 205.1 et seq., as amended, entitled "Municipal Traffic Engineering Certification."
- c. Study Area. A study area shall be defined by the traffic engineer which represents the area that is likely to be affected (from a traffic impact standpoint) by the development. Prior to identifying the study area, the traffic engineer shall discuss possible study area boundaries with the applicant and the Township. Specific intersections to be included in the study shall be mutually agreed upon prior to initiating work on the proposed use as listed hereafter.
- d. Contents of Impact Study. A traffic impact study shall contain the following information:
 - 1) General Site Description. The site description shall include the size, location, proposed land uses, construction staging and completion date of the proposed development. A brief description of other major existing uses and approved recorded development plans that as agreed upon by the Township, and the traffic engineer, have a bearing on the development's likely traffic impact, shall be included as source data. The Township may, in addition, require consideration of development proposals not yet approved and recorded, but with sufficient status and probable impact to warrant inclusion.
 - 2) Transportation Facilities Description. Said description shall contain a full documentation of the proposed internal and external circulation system within the proposed study area. Said description shall include circulation; all proposed ingress and egress locations; all internal roadway widths and rights-of-way; existing and proposed parking conditions; traffic channelizations; any traffic signals or other intersection control devices at all intersections within the project site. Said description shall include all major elements of the existing roadway system within the study area. All major existing and proposed public transportation services and facilities within the study area shall also be

documented. All future highway improvements, including proposed construction and traffic signalization, shall be noted. This information shall be obtained from the Pennsylvania Department of Transportation and from the Township office in Elk Township.

- 3) Existing Traffic Conditions. Existing traffic conditions shall be documented for all major roadways and intersections. Existing traffic volumes for average daily traffic, peak hour(s) traffic shall be recorded. Mechanical or manual traffic counts at major intersections in the study area shall be conducted encompassing the peak highway and development generated hour(s), and documentation regarding said traffic counts shall be included in the traffic engineer's report. A volume capacity analysis based on the existing volumes shall be performed during the peak highway hour(s) and the peak development generated hour(s) for all roadways and major intersections within the study area.

The capacity analysis shall be conducted according to methods of analysis accepted by the Pennsylvania Department of Transportation. The existing level of service associated with each major roadway and intersection evaluated shall be recorded. Data about the most recent available accident levels within the study area shall be indicated.

- 4) Impact of Development on Area Circulation. Estimates of vehicle trips to result from the proposed development shall be completed for the design - day peak highway hour(s) and peak development generated hour(s). In order to obtain vehicle trip generation base data, the traffic engineer shall consult either his firm's data bank or the most current edition of the Institute of Transportation Engineers Trip Generation Report, or local data from the Township or, if available, more current or comprehensive sources. All turning movements associated with the proposed improvement generated hour(s) shall be computed and contained in the study. Traffic volumes generated by the proposed use shall be distributed and assigned to existing roadways and intersections throughout the study area for which existing conditions were recorded. Documentation of all assumptions used in the distribution and assignment of traffic shall be provided. Any characteristics of the site that are likely to cause particular traffic management problems shall be noted.

- 5) Analysis of Traffic Impact. The traffic engineer shall evaluate the likely impact of the proposed development on the areas circulation system. Included shall be an evaluation of the proposals likely impact on existing and planned public transportation improvements, the expected impact on pedestrian and non-vehicular circulation, and evaluation of the capacity of existing roadways within the study area to accommodate site-generated traffic, as well as total future traffic demand. (Total future traffic demand shall include existing vehicular volumes and traffic volumes associated with approved developments within the study area.) This demand shall consist of a combination of the existing traffic

expanded to the completion year (using the annual traffic rate available from the Delaware Valley Regional Planning Commission), the development-generated traffic, and the traffic generated by other proposed developments in the study area. The traffic engineer shall render an opinion regarding the capacity of the existing roadway system to accommodate future traffic demand. Should the traffic engineer conclude that the existing roadway system cannot accommodate anticipated traffic demand, said engineer shall offer a recommendation regarding what improvements are necessary to the areas roadway system. Said traffic engineer shall identify the relationship of the site-generated traffic associated with the proposed development's impact on overall demand, and shall further identify the development's proportional relationship to the traffic system improvements that are likely to be required, in part, due to the development. The volume/capacity analysis shall be updated to include a volume/capacity analysis using the total future demand and future roadway capacity. In addition, if staging of the proposed development is anticipated, calculations for each stage of completion vis-a-vis the volume/capacity analysis shall be performed. The analysis shall be conducted, on a design day, during the peak highway hour(s) and on major intersections in the study area which are projected to be affected by the proposed development. All access points and pedestrian crossings shall be examined as to the need for and feasibility of installing traffic signals or other traffic control devices. To do this, the traffic engineer shall evaluate access points and pedestrian crossings pursuant to the Pennsylvania Department of Transportation specifications for traffic signal warrants.

- 6) **Conclusions and Recommended Improvements.** Projected levels of service for all roadways and intersections shall be identified at the conclusion of each phase of development. All roadways and/or intersections showing a level of service which is deemed deficient by the traffic engineer during peak hours of the day (peak hour defined to include peak hour of the day on the particular roadway and peak hour of traffic of development generated traffic) shall be identified. Specific recommendations for the elimination of traffic problems associated with the proposed development shall be identified. (Levels of service are defined in the 1985 Highway Capacity Manual, Highway Research Board, National Academy of Sciences, Special Report 209, as amended.) A listing of recommended improvements shall include the following elements: internal circulation design; site access locations and design; improvements and widenings; traffic signal installation and operation, including signal timing; transit design improvements; and reduced intensities of uses. All physical roadway improvements shall be shown as a part of the report. The listing recommending improvements for vehicular, pedestrian/non-vehicular, and transit modes shall include, for each improvement, the party proposed to be responsible for the improvement, the cost and funding of the improvement (to the extent possible) and the completion date for the improvement (to the extent possible). The Township, with the assistance of its own traffic engineer,

shall review the methodology, assumptions, findings, and recommendations of the applicant's traffic engineer. The Board of Supervisors may impose upon the applicant additional improvements deemed necessary to accommodate impacts of the development.

2. Utilities Impact Study. A study shall be prepared by a registered professional engineer indicating the likely impact of the proposed development on the existing sewer, water, groundwater, solid waste and drainage systems serving Elk Township. Said impact analysis shall identify the existing capacity of facilities which would serve the development, the prospects of those facilities being able to provide service to it, and any improvements that might be required as a direct result of the proposed development. Additionally, the study should identify the likely ability of sewer, water, solid waste, and drainage systems to continue to provide efficient and economic service to existing residents and businesses within the Township, considering added service requirements of the proposed development, The study shall indicate what alternatives have been considered for sewage treatment and disposal, as well as measures to be initiated toward waste recycling and water conservation.
3. Recreation. The study shall analyze the demand for recreational facilities which the proposed development will generate and determine whether adequate facilities exist or are planned or proposed, as a minimum, the study should include the following:
 - a. A description of the proposed age breakdown of the residents of the proposed development.
 - b. A description of any recreational facilities to be provided by the developer.
 - c. A description of who the responsible party(s) will be for ownership and maintenance (public and private) of any recreational facilities to be provided by the developer.
 - d. A description of existing municipal recreational facilities and the impact of the proposed development on these facilities.
 - e. Discussion of potential for any recreational facilities to be provided by the developer to compensate for any anticipated deficiencies of the Township's recreation facilities.
 - f. A description of accessibility of developer proposed facilities to general Township residents.
 - g. A description of any contributions the developer plans to make for Township recreation to compensate for expected impacts.
4. Fiscal Impact Analysis. A fiscal impact analysis shall be prepared for all conditional uses, special exceptions and proposed zoning changes identifying the likely impact of the development on the Township's tax structure and expenditure patterns. Included shall be a determination of the revenues to accrue to the Township as a result of the proposed development, as well as an identification of the costs associated with delivering service

to the proposed development. The fiscal impact analysis shall deal with the impact of the proposed development on the ability of the Township to deliver fire, police, administrative, public works and utility services based on the Township's economy. In order to prepare the analysis, the applicant shall utilize a methodology offered in The Fiscal Impact Handbook (Rutgers Center for Urban Policy Research, 1978, as modified from time to time), adapted as appropriate and to the Board's satisfaction. The "case study method" shall be a preferred alternative; in reviewing methodologies with the applicant, however, the Board of Supervisors may authorize a different methodology if the applicant can demonstrate to the Board's satisfaction substantial advantages in results achieved and/or efficiencies realized. Particular aspects of the Township's service delivery capability to be analyzed shall include:

- a. Public Works. This includes potential effects on the maintenance, repair and upkeep of roads, signal systems, sewer, water and drainage systems, open space and recreation areas or any other applicable function of this department. This study shall address projected cost increases for the above mentioned items in terms of administration, personnel, equipment and materials.
 - b. Administration. This includes time that would be required by the Board of Supervisors, Manager, Administrative Assistant, clerical personnel, engineers, and consultants to process the application and handle the project during construction as well as long term administrative demands. This should include, but not be limited to, the handling of plans, contracts, various legal instruments or agreements, permits, special problems, and escrow. Added demands on the code administration staff also shall be projected.
 - c. Fire and Emergency Services. The analysis shall incorporate the developments impact on fire company capabilities, including but not limited to, municipal water supply, pumping capacity, specialized equipment and training requirements.
 - d. Police. The study shall project the overall effects of the proposed development on existing Township police protection provided by the Pennsylvania State Police.
5. Historic Resources Impact Study.
- a. Applicability. A historic resources impact study, or any applicable portions thereof, may be required, unless waived or modified, by the Zoning Hearing Board when any of the following are proposed:
 - 1) Subdivision or land development plans which will lead to the new construction of buildings, structures, roads, driveways, parking areas, etc., located within two hundred (200) feet of the boundary and/or exterior walls of an historic resource.
 - 2) Subdivision or land development plans which proposed adaptive reuse or demolition of an historic resource.

- 3) General bridge or road construction or substantial repair passing within two hundred (200) feet of the exterior walls of an historic resource.
- b. The Board of Supervisors may require the applicant to submit the historic resource impact study as a subsection of an impact study required in this Section, or as a separate document.
 - c. The historic resource impact statement shall be prepared by a qualified professional in historic preservation, historical architecture, planning, or related disciplines and presented by the applicant or his agent for discussion at a meeting of the Elk Township Board of Supervisors.
 - d. Contents. The study shall contain the following information, as required by the Board of Supervisors:
 - 1) Background Information.
 - a) If not otherwise provided by the applicant, a general site description, including topography, watercourses, vegetation, landscaping, existing drives, etc.
 - b) General description and classification of all historic resources located on the subject tract, on tracts immediately adjacent to the subject tract or road, or within two hundred (200) feet of the subject tract or road.
 - c) Physical description of all resources identified in (b) above.
 - d) Statement of the significance of each historic resource, both relative to the Township and region in general.
 - e) Sufficient number of black and white 8" x 10" photographs to show every historic resource identified in (b), above, in its setting.
 - f) Narrative description of the historical development of the subject tract or road.
 - 2) Proposed Change.
 - a) General description of project, including timetable of phases.
 - b) Description of impact on each historic resource identified in subsection (1)(b), above, with regard to architectural integrity, historic setting, and future use.
 - c) General description of effect of noise and traffic and any other impacts generated by the proposed change on each historic resource.

- 3) **Mitigation Measures.** Recommendations for mitigating the project's impacts on -historic resources, including design alternatives, screening in accordance with Section 1301.E., landscaping in accordance with Section 1301.E., and any other appropriate measured permitted under the terms of this and other Township ordinances.
6. **Environmental Impact Study.**
- a. All applicants filing an environmental impact study shall prepare such a report in accordance with the provisions of this Section.
 - b. The format and contents of the environmental impact study shall be as follows:
 - 1) **Description of Existing Conditions.** This Section shall represent a description of existing characteristics of the property with respect to geology, topography, ground and surface water hydrology, soils, vegetation, Pennsylvania Natural Diversity Index (PNDI) Sites, and existing improvements and uses.
 - 2) **Description of the Proposed Action.** This Section shall describe the proposed action including: types, locations and phasing of proposed site disturbances and construction, as well as proposed future ownership and maintenance of the property and the proposed improvements. Plans describing the proposed action may either be included within or accompany the environmental impact study.
 - 3) **Proposed Measures to Control Potential Adverse Environmental Impacts.** This Section shall describe all measures proposed by the applicant to control all adverse impacts which may occur as a result of the proposed action.
 - 4) **List and Qualifications of Preparers.** The names, addresses, telephone numbers and qualifications of persons directly responsible for preparing the environmental impact study shall be provided.
 - 5) **Appendices.** Any additional information which the applicant wishes to provide may be included in one or more appendices to the report.
 - c. The environmental impact study must be received by the Township no later than sixty (60) days prior to the final date by which the Township must formally act upon the application. The report shall be submitted in six (6) copies to the Township. The Township Engineer shall review the report and submit his findings in a memorandum to the Board of Supervisors. A copy of the memorandum shall be forwarded to the applicant.
 - d. **Board Approval Required.**

- 1) Following the report of the Township Engineer on any submission of an environmental impact study, the Board shall either approve the application, with conditions, or reject it, and shall do so within a ninety (90) day period unless a request to extend the time period is mutually agreed upon in writing.
- 2) Where compliance with this Section is required as part of an application for subdivision or land development approval, the Board's decision on whether compliance has been achieved shall be made as part of its decision on the subdivision or land development application.
- 3) Where the application is part of a request for a zoning permit, the Zoning Officer shall issue no such permit until the terms of this Section, and any conditions imposed upon the use of the property at the time of subdivision or land development approval, are satisfied.

SECTION 1304. PARKING.

No building or structure shall hereafter be constructed, enlarged or modified and no use or activity shall be conducted or expanded unless provision is made on the same or adjacent lot for off-street parking facilities, either within a structure or in the open, and with proper and safe access from a street, to adequately serve the uses within the district according to the provisions of this Section. The following regulations shall apply to all uses in all districts with the exception of agricultural uses on lots at least 10,000 square feet in size:

A. Location.

1. In no case shall any portion of a public street be utilized in complying with the parking requirements of this Section.
2. All parking spaces shall be on the same lot as the principal buildings except when permitted by the Board of Supervisors.
3. The parking spaces required in subsection 1304.E., below, may be located elsewhere than on the same lot when authorized by the Board subject to the following conditions:
 - a. The owners of two (2) or more establishments shall submit with their applications for special exception, a site plan showing joint use, agreement and location of a common off-street parking area.
 - b. Some portion of the common off-street parking area shall lie within two hundred (200) feet of an entrance, regularly used by patrons, into the buildings served thereby.
 - c. The total number of parking spaces provided equals or exceeds the sum of the individual requirements.

4. In any commercial district, no parking, loading or service area shall be located within required front yard areas (i.e., between street right-of-way and building setback line).
5. For residential dwellings, the spaces shall be within one hundred (100) feet of the dwelling unit they serve.

B. Size.

1. Parking spaces for each vehicle shall be at least ten (10) feet by twenty (20) feet in size and shall have a paved surface, except for parking spaces serving single family detached dwellings, which may be an improved all-weather surface, providing safe and convenient access in all seasons.
2. The required parking area shall be measured exclusive of interior drives or maneuvering areas.
3. In the design of parking lots, the minimum required design standards for internal aisles and drives shall conform to the requirements of Section 1301.D. Interior Circulation.

C. Design.

1. Any parking for five (5) or more vehicles on a lot which abuts a residential district or a lot for residential purposes, whether single family or multi-family, shall be screened from the adjacent property by an effective screen the entire length of the parking lot, according to the requirements of Section 1301.E.
2. Interior circulation within parking areas shall be in accordance with the provisions of Section 1301.D.
3. Parking areas shall be landscaped in accordance with Subsection 1301.E.
4. Parking spaces shall be clearly delineated by suitable markings. Special use spaces such as short-term visitor parking, handicapped parking and pick-up/drop-off zones shall be differentiated from long-term employee parking by suitable markings.
5. Handicapped Parking shall be provided according to the Federal Americans with Disabilities Act of 1990 (42 U.S.C. §§12101 et seq.) The following shall apply to commercial, industrial, professional office, institutional, religious and educational uses:
 - a. If the total number of parking spaces exceeds twenty (20), a minimum of two (2%) percent of the total number of parking spaces, but not less than two (2) parking spaces, shall be designed and designated for physically handicapped persons, unless otherwise specified by the Board of Supervisors.
 - b. Said spaces shall be most accessible and approximate to the building or buildings which the parking spaces shall serve.
 - c. Each space or group of spaces shall be identified with a clearly visible sign displaying the international symbol of access.

- d. Each space shall be twelve (12) feet wide to allow room for persons in wheelchairs or on braces or crutches to get in and out of either side of an automobile onto level, paved surface suitable for wheeling and walking.
- e. Where possible, such spaces shall be located so that persons in wheelchairs or using braces or crutches are not compelled to wheel or walk behind parked cars.
- f. Where applicable, curb ramps shall be provided to permit handicapped people access from the parking lot to the sidewalk or building entrance.

D. Residential Parking Requirements. Two (2) spaces per dwelling unit for single family and two (2) family dwellings. Two and one-quarter (2 1/4) spaces per dwelling unit for all other types of residential dwellings. All fractions shall be rounded to the nearest figure.

E. Nonresidential Parking Requirements. There shall be sufficient space provided for each use so that there is a minimum of one (1) space for each employee on shift of greatest employment, plus additional parking spaces to be provided by the application of the appropriate formula for each use as listed in this subsection. An application for special exception must be filed with the Zoning Hearing Board for any reduction in the number of off street parking spaces in cases where the applicant can justify the reduction and still provide adequate facilities. The number of required parking spaces may be increased based on the intensity of the use, with the burden of proof on the applicant. In the case of mixed uses, the total number of required parking spaces shall be the sum of the required spaces for the various uses computed separately.

Minimum off-street parking requirements in addition to employee spaces shall be as follows:

Use	Minimum Parking Requirements
Industry, wholesale storage or distribution, Laboratory or research floor space	1 space/5,000 sq ft
Eating and drinking establishments	1 space/ 2 seats
Driving range	1 space/tee
Golf course	4 spaces/tee
Theater, church, meeting place	1 space/2 seats
Bowling alley	3 spaces/1 alley
Motel, hotel, inn	1 space/guest room or unit
Hospital, nursing home	1 space/ 5 patient beds
Gasoline service station	3 spaces/gasoline pump
Bank or other financial institution	1 space/500 ft of floor area

Use	Minimum Parking Requirements
Laundromat	1 space/washing machine
Elementary school	1 space/20 students
All other schools, day care centers	1 space/10 students
Retail stores, antique shops, personal service Establishments of customer sales or service areas	1 space/200 sq ft
Funeral Home	1 space/50 sq ft devoted to assembly or viewing room purposes
Institution	1 space/2 beds
Medical and dental offices and clinics	4 spaces/doctor
All other offices	1 space/400 sq ft of office buildings floor area, which includes required space for employees.

SECTION 1305. PERFORMANCE STANDARDS.

The following regulations shall apply to all districts:

- A. **Air Quality: Pollution and Airborne Emissions.** All uses shall be in compliance with the rules and regulations of the Pennsylvania Department of Environmental Protection (Pa DEP) and with the following provisions:

There shall be no emission of smoke, ash, dust, fumes, vapors, gases or other matter toxic or noxious or corrosive fumes or gases to the air which violate the Pennsylvania air pollution control laws, including the standards set forth in 25 Pa Code Chapter 123 Standards for Contaminants, Chapter 131 Ambient Air Quality Standards and, PaDEP regulations, Article III, Air Resources.

1. Odors perceptible at the property lines or down wind from the source of any odor other than product by farm operations shall not be permitted. Dust or other particulate matter not associated with farm operations, construction or demolition activities shall not be permitted.
2. No user shall operate or maintain or be permitted to operate or maintain any equipment, installation or device which, by reason of its operation or maintenance, will discharge contaminants into the air in excess of the limits specified by Pennsylvania's air pollution control laws unless he shall install and maintain in conjunction therewith such control as will prevent the emission into the open air of any air contaminant in a quantity that will violate any provision of this Ordinance.

B. Fire and Explosive Hazards. No use or operation shall be permitted which creates a public nuisance or hazard by reason of potential fire or explosion.

1. All activities and all storage of flammable and explosive material at any point shall be provided with adequate safety devices against the hazard of fire and explosion, and adequate fire fighting and fire suppression equipment, and devices as detailed and specified by the laws of the Commonwealth of Pennsylvania.
2. All buildings and structures and activities within such buildings and structures shall conform to the Building Code, the Fire Prevention Code, and other applicable Township Ordinances. Any explosive material shall conform to federal, State and local Environmental Resources rules and regulations for storing, handling and use of explosives.

C. Glare and Heat. All uses shall be in compliance with the rules and regulations of the Pennsylvania Department of Environmental Protection and the following provisions:

1. No direct or sky-reflected glare, whether from floodlights or high temperature processes such as combustion or welding or otherwise, so as to be visible at the lot line shall be permitted. These regulations shall not apply to signs or floodlighting of parking areas otherwise permitted by this Ordinance.
2. There shall be no emission or transmission of heat or heated air so as to be discernible at the lot line.

D. Liquid and Solid Waste.

There shall be no discharge at any point into any public or private sewage system, watercourses or into the ground, of any materials in such a way or such a nature as will contaminate or otherwise cause the emission of hazardous materials that violate the laws of Elk Township and the Commonwealth of Pennsylvania, and specifically the federal and Pennsylvania Department of Environmental Resources, Rules and Regulations.

E. Noise. All uses shall be in compliance with the rules and regulations of the Pennsylvania Department of Environmental Protection and the following provisions:

No person shall operate, or cause to be operated on private or public property, any source of continuous sound (any sound which is static, fluctuating or intermittent with a recurrence greater than one (1) time in any fifteen (15) second interval) in such a manner as to create a sound level which exceeds the limits set forth in the following table when measured at or within the property boundary of the receiving land use.

Receiving Land Use Category	Time	Limit
Residential, Public Space, Open Space, Agricultural, or Institutional	1) 7:00 a.m.-9:00 p.m.	50 dBA
	2) 9:00 p.m.-7:00 a.m. plus Sundays and legal holidays	40 dBA

Receiving Land Use Category	Time	Limit
Commercial or Business	1) 7:00 a.m.-9:00 p.m.	65 dBA
	2) 9:00 p.m.-7:00 a.m. plus Sundays and legal holidays	50 dBA
Industrial	At all times	70 dBA

1. For any source of sound which emits a pure continual tone, the maximum sound level limits set forth in the above table shall be reduced by 10 dBA. For any source of sound which emits an impulsive sound (a sound of short duration, with an abrupt onset and rapid delay and an occurrence of not more than one time in any fifteen (15) second interval) the excursions of sound pressure level shall not exceed 10 dBA over the ambient sound level, regardless of time of day or night of receiving land use. Sound levels shall be measured at the property lines housing the activity by a sound level meter which conforms to specifications published by the American Standards Association.
2. The maximum permissible sound levels as listed in the previous table shall not apply to any of the following noise sources:
 - a. The emission of sound for the purpose of alerting persons to the existence of an emergency or associated practice drills.
 - b. Emergency work to provide electricity, water or other public utilities when public health or safety is involved.
 - c. Domestic power tools.
 - d. Agriculture.
 - e. Public celebrations, specifically authorized by the Township.
3. Motor vehicle operations shall not exceed the noise levels established in the State of Pennsylvania Code of Regulations 67 Pa Code §§ 157.1 et seq., for Established Sound Levels.

F. **Odors.** All uses shall be in compliance with the rules and regulations of the Pennsylvania Department of Environmental Protection and the following provisions:

No uses except agricultural operations, shall emit odorous gases or other odorous matter in such quantities to be offensive at any point on or beyond its lot lines. The guide for determining such quantities of offensive odors shall be the fifty (50%) percent response level of Table I (Odor Thresholds in Air), "Research of Chemical Odors: Part I - Odor Thresholds for 53 Commercial Chemicals", October, 1986, Manufacturing Chemists Association, Inc., Washington, D.C.

G. **Keeping of Animals.** In any district on any lot ten (10) acres or less in size, dogs, cats, fowl, rabbits, goats, sheep, cows, swine, ponies, horses, and other animals of similar size, character and impact shall be kept only according to the following standards. Customary household pets (i.e., dogs, cats, and other small animals customarily kept in the home) shall be exempt from the

acreage limitations of this Section but shall comply with the general standards for keeping animals, as applicable, as follows:

1. Permitted Number of Animals. A minimum of three (3) acres shall be required to keep one horse, cow, beef cattle, or other animal of similar size. A minimum of two (2) acres shall be required to keep one swine, sheep, or other animal of similar size, or to keep poultry. For each additional animal, additional acreage must be available in accordance with the following chart (Animals not referenced below shall be judged according to the requirement for animals of a similar size):

Animal	Additional acreage Required per Animal*
Horse	1.5
Cow	1.5
Beef Cattle	1.5
Swine	.30
Sheep	.30
Poultry, Rabbits	.02

*beyond the initial two to three acres, as applicable.

2. General Standards for Keeping of Animals.
 - a. No animals of any kind shall be kept in any structure or enclosure or elsewhere on a property which will result in unhealthy or unsanitary conditions for humans or animals or cause excessive noise, objectionable odors, or pollution of groundwater or stormwater runoff to adjacent properties.
 - b. No person owning or having in his/her custody livestock or poultry shall permit the same to go at large to the injury or annoyance of others, nor shall such livestock or poultry be permitted upon the streets or other public ways or the Township. Such action is hereby declared to be a nuisance and dangerous to the public health and safety.
 - c. All animals shall have appropriate and adequate facilities for food and water. Permanent shelter shall be provided for all animals not kept in the residence including dogs, rabbits, poultry, swine, and other domestic animals. Horses, cattle, sheep, and goats shall have loafing sheds, covered feeding areas, or other appropriate facilities.
 - d. A fenced or otherwise enclosed outside area shall be provided which is capable of containing the animals kept and is of sufficient size and located for good sanitation practices. Materials used for fencing shall be of sufficient sturdiness and properly designed, installed, and maintained so as to prevent straying.
 - e. The storage or stock-piling of manure or other odor or dust producing substance shall not be permitted within seventy-five (75) feet of any abutting property or public right-of-way, closer than one hundred (100) feet to any wells, springs,

sinkholes, on slopes adjacent to any ponds and streams, or within any swale or drainageway.

- f. All grazing and pasture areas where animals are kept shall be fenced and consist of well-maintained grasses as not to promote erosion.

3. Specific Shelter Areas.

- a. Sheltered area(s) of sufficient size for good sanitation practices and adequate and sanitary drainage therefore shall be provided according to the following minimum requirements:
 - 1) A shelter area of one hundred fifty (150) square feet shall be provided for each mature horse.
 - 2) A shelter area of one hundred (100) square feet shall be provided for each pony, mule, donkey, cow or other livestock animal of similar size.
 - 3) A shelter area of seventy-five (75) feet shall be provided for each swine of other livestock of a similar size.
- b. Any permanent building placed or constructed on a property shall be designed to serve only that number of animals which is permitted in accordance with this Section based on the available acreage.
- c. All shelters shall have a roof and at least three (3) enclosed sides and shall be designed in accordance with the setback and impervious coverage requirements of the associated district.
- d. All permanent shelters shall be designed for ease of manure removal and handling.

H. **Radioactivity or Electrical Disturbances.**

There shall be no activities which emit dangerous radioactivity at any point. There shall be no radio or electrical disturbances adversely affecting the operation of equipment belonging to someone other than the creator of the disturbance. If any use is proposed which incorporates the use of any radioactive material, equipment or supplies, such use shall be in strict conformity with Title 25 Pa Code, Chapters 221, 223, 225, 227 and 229, relating to radiological health, Pennsylvania Department of Environmental Protection, Rules and Regulations.

- I. **Vibration.** No vibration shall be produced which is transmitted through the ground and is discernible without the aid of instruments at or at any point beyond the lot line.

- J. **Water Pollution.** All uses shall be in compliance with the rules and regulations of the Pennsylvania Department of Environmental Protection and the provisions of the clean streams law, as amended, and associated regulations.

- K. **Well Water Withdrawal.** All uses shall be in accordance with the water supply standards of the Township's Subdivision and Land Development Ordinance.

ARTICLE XIV SIGNS

SECTION 1400. COMPLIANCE.

Any sign hereafter erected, altered, or maintained shall conform to the provisions of this Article and any other applicable ordinances or regulations of the Township of Elk, relating thereto.

SECTION 1401. PURPOSE.

It is the purpose of this Article to promote the public safety and welfare by regulating the placement, size, number, and condition of signs and by limiting visual blight, potential hazards to vehicular and pedestrian movement, and dangers posed by signs in disrepair. Further, it is the purpose of this Article to provide opportunities for a variety of sign types and encourage sign designs that meet local resident and business needs in a manner that complements the rural character of the Township.

SECTION 1402. SIGNS TYPES AND CLASSIFICATION

A. For purposes of this Article, the following terms are defined:

1. Abandoned Sign: A sign erected on, or related to, the use of a property which becomes vacant and unoccupied for a period of six (6) months or more, or any sign that relates to a time, event, or purpose that is past.
2. Business Sign: A sign directing attention to a business, commodity, or service conducted, sold or offered upon the same premises as those upon which the sign is maintained. This includes signs that identify or advertise home occupations or signs affixed to vehicles denoting a business-related activity.
 - a. Canopy or Awning Sign: Any sign that is part of or attached to an awning, canopy, or other fabric, plastic, or structural protective cover over the door, entrance, window, or outdoor service area.
 - b. Construction/Development Sign: A type of temporary sign intended to display the name of the project and or the contractor, architect, engineer, financier, or similar information pertaining to the project.
 - c. Double-Faced Sign: A sign that displays a message, information, or advertising on both faces of the sign.
 - d. Freestanding Sign: A sign supported by structures or support that are placed on, or anchored in, the ground and that are independent from any building or structure. The height of a freestanding sign shall be measured from the proposed finished grade to the highest point of the sign structure.
 - e. Ground Sign: A sign, other than a freestanding sign, placed directly on the ground without supports of pylons, independent from any building or structure.

- f. Illuminated Sign: A sign that has characters, letters, figures, designs, or outlines illuminated by direct or indirect electric lighting or luminous tubes as part of the sign.
- g. Official Traffic Sign: Signs erected by the Pennsylvania Department of Transportation or Elk Township which are designed to regulate traffic, describe road conditions, supply directions, or provide information.
- h. Off-Premises Signs (Billboards): A sign that directs attention to a person, business, profession, product, or activity not conducted on the same premises.
- i. Political Sign: A temporary sign pertaining to political views, an individual seeking election or appointment to a public office, or a forthcoming public election or referendum.
- j. Portable Sign: A type of temporary sign, with or without display or legend, that is self supporting without being firmly embedded in the ground or is fixed on a movable stand or mounted on wheels or movable vehicles, or made easily movable in some other manner. Portable sign shall also include searchlight standards and hot air or gas filled balloons.
- k. Projecting Sign: A sign affixed to a wall or other vertical building surface in such a manner that its leading edge extends more than six (6) inches beyond the surface of such wall or building.
- l. Real Estate Sign: A sign pertaining to the sale, lease, or rental of the property on which it is located.
- m. Temporary Sign: A sign intended for short-term use, such as a promotional sign, including signs pertaining to business events, community events, political issues, an individual seeking public office or a forthcoming public election. Please refer to Section 1406.
- n. Wall Sign: A sign parallel to a wall or other vertical building surface. Wall signs shall not extend beyond the edge of any wall or other surface to which they are mounted and shall project no more than six inches from its surface; otherwise they shall be defined as a projecting sign.
- o. Window Sign: A temporary or permanent sign oriented to the public right-of way and is located on the inside or outside of a window.

SECTION 1403. GENERAL SIGN REGULATIONS.

The following restrictions shall apply to all permitted signs:

- A. No sign shall be placed in such a position that it will cause danger to traffic on a street by obscuring the view.

- B. No sign other than signs authorized by this Article shall be erected within the lines of any public street or public sidewalk, or shall be closer to a street line than ten (10) feet, except for single dwelling real estate signs which may be set closer for proper view from the street line, unless specifically authorized by other ordinances and regulations of Elk Township.

- C. No stringing of light bulbs, no animated sign, nor signs that revolve, swing, or have movable parts, or have flashing lights or reflectors shall be permitted after the effective date of this Ordinance, and no advertising sign, banner, pennant, valance, spinners or displays constructed of cloth, canvas, wall board or other like materials shall be erected, suspended or hung on any property, except as follows: the Zoning Officer may permit the use of any such advertising signs, banners, or displays constructed of cloth, light fabric or other like materials for a period of not more than thirty (30) days in any one calendar year, provided that:
 - 1. No such sign or display shall exceed in size the area permitted for permanent signs as provided for each zoning district;
 - 2. No sign shall be placed in such a position that it will cause danger to traffic on a street by obscuring the view;
 - 3. No such sign or display shall be permitted within the lines of any public street or public sidewalk, or shall be closer to a curb than ten (10) feet unless specifically authorized by other ordinances and regulations of Elk Township;
 - 4. No sign or display shall be permitted to be placed across a public street or highway.

- D. No sign shall project over a public sidewalk or street, unless authorized as a special exception by the Zoning Hearing Board.

- E. Each sign must be maintained in good condition and repair. The Township Officer designated to periodically inspect signs shall require repair when necessary within a reasonable time and failure to comply shall be just cause for the Township to remove the sign or take corrective action to insure the maintenance of the public safety.

- F. No commercial building or multiple dwellings or apartments in any residential district, shall be illuminated on the exterior by flood lighting or spot lighting or any similar type of lighting.

- G. Advertising signs within four hundred (400) feet of a public park of five (5) acres or more in area, and other such parks as the Township Supervisors may designate, shall not be permitted to be located in such a manner as to obscure or detract from the view of such park or scenic area.

- H. All signs shall be made a part of the architectural design of a new commercial construction or major alterations of existing buildings. Drawings submitted for sign permits shall show size, location and illumination in detail. No sign shall protrude above the building height as defined in the district.

- I. Signs on vehicles denoting a business related activity is a business sign. Vehicles containing a business sign and parked in a residential district shall be concealed (garaged) from public view except wherein the vehicle owner or repairman is actually engaged in authorized repairs or construction at that location.

- J. All nonconforming signs at the effective date of this Ordinance shall be altered, removed or eliminated within five (5) years from the effective date of this Ordinance.
- K. All business signs and all other signs exceeding four (4) square feet shall require permits.
- L. For the purpose of ascertaining whether any sign is no more than the dimensions permitted by this Part, sign is hereby defined to include the area on which the name, advertising material and/or logo is located, together with all moldings, battens, cappings, nailing strips, latticing, and platforms which are attached to the area on which the name, advertising material and/or logo is placed. In the case of signs which are composed of letters, words or representations only, as in the case of such material affixed to a building and which are not heretofore physically enclosed within a frame, the sign shall be considered to include as area, a square or rectangle drawn at the outer limits of the letters or representations.
- M. Any sign located along the right-of-way of a state or federal highway shall comply with any more restrictive requirements which may be applicable.
- N. All distances provided in this Article shall be measured along straight lines between signs and from the near edge to the near edge of the sign or sign structure.
- O. No sign shall be erected or maintained so as to prevent free ingress or egress from any door, window or fire escape.
- P. No business sign may be located nearer to a residence or a residential district lot line than permitted for buildings on the lot. If located nearer than thirty (30) feet and facing into a residence or a residential district, it shall be so designed as not to shine or reflect light upon such residence or district.
- Q. No sign except removable political signs and temporary removable yard or garage sale signs, shall be placed on any utility pole or other sign posts. Such sign shall be removed no later than three (3) days after the announced event.
- R. If a use ceases for a period of six (6) months, signs advertising the ceased business, or businesses, must be removed by the owner of the property. Such signs may be removed by the Township at the expense of the owner of the property on which said sign is located.
- S. All signs shall be securely mounted or fastened to the building upon which they are erected or, if freestanding, must be securely and safely installed in the ground. The installation of all signs must be approved by the Zoning Officer.
- T. Directional signs, not exceeding two (2) square feet in size, shall be permitted in any district. No advertising matter shall be contained on signs of this type.
- U. Off-site directional signs shall indicate only the name of the facility, organization or site, including location of meetings, and the direction in which it is located or approximate distance. Such sign shall not exceed three (3) square feet in area. No more than two (2) signs shall be permitted within the Township, unless otherwise approved by the Board of Supervisors.
- V. Gasoline service stations shall be permitted one (1) price sign for each street frontage, provided that the following are met:

1. The sign shall not exceed fifteen (15) square feet.
2. The sign shall not be lighted.
3. The sign may be permanently affixed to the ground but should be constructed to withstand overturning by heavy winds.

SECTION 1404. STANDARDS FOR SPECIFIC SIGN TYPES.

A. Freestanding Signs.

1. Where necessary to provide safe passage for pedestrians, the lowest edge of the freestanding sign shall be no less than six (6) feet or no greater than eight (8) feet above the ground.
2. Freestanding signs shall be limited to one (1) such sign per lot or development. If more than one (1) use is carried on in a single structure, the one (1) permitted freestanding sign may indicate the presence of all uses in the structure. Individual freestanding signs for each use shall not be permitted.
3. In those districts where both freestanding signs and ground signs are permitted, only one (1) of these sign types shall be erected on a premises.

B. Ground Signs.

1. Ground signs shall be supported and permanently placed by embedding, anchoring, or connecting the sign in such a manner as to incorporate it into the landscape or architectural design scheme.
2. Ground signs shall be limited to one (1) such sign per structure. If more than one (1) use is carried on in a single structure, the one (1) permitted ground sign may indicate the presence of all uses in the structure. Individual ground signs or each use shall not be permitted.
3. In those districts where both ground signs and freestanding signs are permitted, only one (1) of the sign types references shall be erected on a premises.
4. All ground signs shall have an open space of at least two (2) feet between the ground and the bottom of the sign, so that this area may be maintained free of weeds and debris. Said signs shall not exceed a height of twenty (20) feet.

C. Projecting Signs.

1. No portion of a projecting sign shall be less than eight (8) feet nor more than twenty (20) feet above the proposed finished grade, and no such sign shall be less than five (5) feet from the plane of the face of the curb or project more than four (4) feet from the face of the building.

2. Projecting signs shall not extend above the top of the wall upon which it is mounted.
3. No projecting sign shall be attached to a building where a canopy or awning sign exists.

D. Wall Signs.

1. No portion of a wall sign shall be less than eight (8) feet above the proposed finished grade nor extend more than twelve (12) inches from the building wall. If the wall sign projects less than three (3) inches from the building, the eight (8) foot height requirement need not be met.
2. Permanent window signs shall be considered wall signs when computing the maximum permitted building coverage of wall signs.
3. Wall signs that are part of the architectural design of a building, such as those located on the lintel above a storefront are limited to the area on the building specifically designed for sign placement. In any case, the size of wall signs shall be limited to ten (10%) percent (10%) of the area of the wall surface in the AP, R-H, R-1, R-2, or L-V Districts and fifteen (15%) percent of the area of the wall surface in the C-1 or C-2 District. The wall surface calculation is limited to the area of the wall on which the sign is located.
4. Where a use is located on a corner, only one (1) wall sign shall be permitted on the front façade of a building of one (1) wall sign on the side or corner of the building.
5. When a wall sign is used, no canopy or awning sign is permitted.

E. Window Signs.

1. A maximum of twenty-five (25%) percent of the total window area may be used for permanent signs that are etched, painted, or permanently affixed to the window.
2. A maximum of thirty-five (35%) percent of the total window area may be covered by a combination of permanent and temporary window signs.
3. Permanent window signs shall be considered wall signs when computing the maximum permitted building coverage of wall signs.

F. Canopy or Awning Signs.

1. Use of a canopy or awning sign shall be limited to not more than one (1) per street frontage of the establishment.
2. The lowest edge of the canopy or awning sign shall be at least seven (7) feet above the ground.
3. A canopy or awning without lettering or other advertising shall not be regulated as a sign.

SECTION 1405. EXEMPT SIGNS.

No permit need be obtained before erecting any one of the following signs in any district. Exempt signs, except those installed by a governmental body to serve a public purpose, shall conform to all other regulations set forth herein:

- A. Signs of a duly constituted governmental body.
- B. Signs or emblems of a religious, political, civil, philanthropic, historical or educational organization not exceeding four (4) square feet in area. Temporary signs for political campaigns, civic events, etc., must be removed within three (3) days after the event or election. In addition, permission must be obtained from the landowner or utility to post said temporary signs.
- C. Directional information or public service signs such as those advertising availability of restrooms, telephone or similar public conveniences, and signs advertising meeting times and places of nonprofit service or charitable clubs or organizations may be erected and maintained, provided that such signs do not significantly advertise any commercial establishment, activity, organization, product, goods or services except those of public utilities. Directional and information signs provided for the safety and/or convenience of the public within commercial establishments may be erected. Signs erected under this provision shall not exceed four (4) square feet in area.
- D. Trespassing signs or signs indicating the private nature of a road, driveway or premises. Signs prohibiting or otherwise controlling hunting or fishing upon particular premises and signs indicating ownership of a property, provided sign area does not exceed four (4) square feet.
- E. Signs offering individual properties for sale or rent or indicating that a property has been sold, provided that such signs shall be located entirely within the lot lines of the particular property to which they refer and provided further that such signs shall not exceed four (4) square feet in area.

SECTION 1406. TEMPORARY SIGN REGULATIONS.

Temporary signs advertising land or premises available for purchase, development or occupancy, or other signs announcing special events or the temporary, lawful sale of products, goods and/or services such as the sale of Christmas trees, shall be permitted, provided that:

- A. Permits shall run for one (1) successive three (3) month period and may be re-issued for an additional one (1) successive three (3) month period.
- B. Unless exempted under Section 1405, a permit must be obtained before erecting any temporary sign.
- C. Temporary signs shall comply with all pertinent regulations applicable to permanent type signs.
- D. Temporary signs shall not exceed twenty-four (24) square feet in area.
- E. Signs shall be removed immediately upon expiration of permit.

- F. Any site or building on which the sign was erected shall be restored to its original or better condition upon removal of the sign.

SECTION 1407. SIGNS IN RESIDENTIAL DISTRICTS.

The following types of signs and no other shall be permitted in the R-H Residential District, the R-1 Residential District, and the R-2 Agricultural Residential District:

- A. **Official traffic signs.**
- B. Professional, accessory use or identification signs indicating the name and postal number, profession or activity of the occupant of a dwelling, provided that:
1. The size of any such sign shall not exceed six (6) square feet.
 2. Not more than one (1) such sign shall be erected for each permitted use or dwelling unit.
 3. No such sign shall be illuminated.
- C. Identification of signs for farms, estates, churches and similar permitted uses other than dwellings, provided that:
1. The size of any such sign shall not exceed twelve (12) square feet.
 2. Not more than one (1) such sign shall be placed on a premises held in single and separate ownership unless such premises front on more than one (1) street, in which case, two (2) such signs may be erected, one (1) on each street frontage.
 3. No such sign shall be illuminated except by concealed or indirect non-glare lighting attached to the sign itself.
- D. Real estate signs, including:
1. Signs advertising the sale or rental of premises, provided that:
 - a. The size of any such sign shall not exceed four (4) square feet.
 - b. Not more than one (1) such sign shall be erected for any property held in single and separate ownership unless such premises front on more than one (1) street, in which case, two (2) such signs may be erected; one (1) on each street frontage.
 - c. No such sign shall be illuminated.
 2. Signs indicating the location and direction of premises in the process of development, provided that:
 - a. As the size of any such sign shall not exceed four (4) square feet and shall be set back a minimum of twenty-five (25) feet from the street line.

- b. Not more than two (2) such signs shall be erected on each five hundred (500) feet of street frontage.
 - c. No such sign shall be illuminated.
 - d. All such signs shall be removed on completion or when active work on the development ceases.
- E. Trespassing sign or sign indicating the private nature of a driveway or premises, provided that the size of any such sign shall not exceed two (2) square feet.
- F. Temporary signs of mechanics, farmers and artisans, provided that:
- 1. Such signs shall be erected only on the premises where such work is being performed.
 - 2. The size of any such sign shall not exceed four (4) square feet.
 - 3. Such signs shall not be illuminated.
 - 4. Such signs shall be removed promptly upon completion of temporary activity.
- G. Nonconforming signs, provided that:
- 1. The total area of all such signs relating to a single use at the effective date of this Ordinance, or at the effective date of any amendment of this Ordinance by which any sign shall be made nonconforming, shall not be increased, subject to the provisions of Section 1605.
 - 2. No such sign shall be changed or replaced in kind outside the limits of this Article and Article XVI.
- H. Business signs pertaining to those uses associated with agriculture, including but not limited to the sale of farm products, farm machinery, equipment and supplies, provided that such signs shall conform to the regulations of Section 1202.

SECTION 1408. SIGNS IN THE LEWISVILLE VILLAGE DISTRICT.

The following regulations apply to signs in the Lewisville Village District.

- A. **Residential uses:** Residential uses within the Lewisville Village District shall comply with the Residential District sign requirements contained herein.
- B. **Commercial uses:** For all commercial uses, signs may be erected in accordance with either subsection 1. or subsection 2. below:
 - 1. One (1) freestanding sign up to ten (10) square feet, plus one (1) of the following:
 - a. One (1) wall sign mounted flush on the wall up to eight (8) square feet; or

- b. One (1) wall sign, when part of the architectural design of the building, consisting of individual letters or symbols, not to exceed ten (10%) percent of wall area: or
 - c. One (1) window sign consisting of individual letters or symbols not to exceed thirty (30%) percent of total glass area of the building front.
 2. One (1) projecting sign projecting not more than five (5) feet from the wall up to eight (8) square feet in size, plus one (1) of the following:
 - a. One (1) wall sign mounted flush on the wall up to eight (8) square feet; or
 - b. One (1) wall sign, when part of the architectural design of the building, consisting of individual letters or symbols, not to exceed ten (10%) percent of wall area: or
 - c. One (1) window sign consisting of individual letters or symbols not to exceed thirty (30%) percent of total glass area of the building front.
 3. If a building fronts upon more than one (1) street, one (1) additional sign in conformity with either subsections, a., b., or c. above may be permitted on each street frontage.
 4. No portion of projecting signs shall be less than ten (10) feet above the finished grade nor more than twenty (20) feet above finished grade.
 5. The maximum height of freestanding signs shall be eight (8) feet above the finished grade.
 6. Where multiple uses are located within a single structure, the size of the permitted freestanding sign may be increased by two (2) square feet for each additional use, up to a maximum total sign area of sixteen (16) square feet. The height of such signs may be increased to a maximum of twelve (12) feet.
 7. Portable signs shall not be permitted in the Lewisville Village District.
- C. **Sign Design Guidelines.** The following sign design guidelines indicate the preferred sign characteristics for the Lewisville Village District. The guidelines should be consulted for additional provisions relevant to the use of signs in this district.
 1. Wood or metal is preferred sign materials. The use of plastic signs is discouraged.
 2. External lighting, or back lighting in the case of window signs, is the preferred method of illumination. Internally lit signs are discouraged.
 3. The overuse of signs should be avoided; temporary advertising signs in windows should be kept to a minimum and remain in place no longer than necessary.
 4. Simplicity of design and a limited color scheme of no more than two or three colors are encouraged. Signs should consist of natural materials and blend with the building or structure they represent. The sign message should be simple and readable.

5. Wall signs designed as an integral part of the façade of commercial buildings (generally located above the door in the lintel) are encouraged. Signs should be proportional in scale to the building and to the wall space on which they are mounted.
6. Wall or projecting signs are preferred where there is a small front yard setback. Freestanding signs are considered most appropriate for buildings originally designed as residential dwellings or where larger front yard setbacks are present.

SECTION 1409. SIGNS IN COMMERCIAL DISTRICTS.

The following types of signs shall be permitted in the C-1 Village Commercial District and C-2 General Commercial District, provided that the signs comply with all requirements herein specified:

- A. Any sign permitted in the residential and agricultural districts which relates to a use permitted in this district.
- B. Real estate signs, advertising the sale or rental of premises, provided that:
 1. The size of such sign shall not exceed four (4) square feet.
 2. Not more than one (1) such sign shall be placed on premises held in single and separate ownership unless such premises fronts on more than one (1) street, in which case one (1) such sign may be placed on each street frontage.
- C. Signs relating to a commercial establishment occupying an individual structure on a single lot in accordance with the following regulations:
 1. Area and Number Regulations.
 - a. Any combination of sign types is allowed provided that no more than two (2) signs shall be permitted for any one (1) use, of which only one (1) shall be a freestanding sign. Such signs shall not exceed thirty-two (32) square feet on any one (1) side and the maximum total exposed sign area of the two (2) signs shall be two (2) square feet for every one (1) foot of building frontage or sixty-four (64) square feet, whichever is greater.
 - b. Building frontage shall be defined as the lineal footage of a building face which serves as the principal approach to a store or building and which building face fronts a public street, shopping center, driveway or pedestrian walkway. For corner lots the building frontage may be calculated on the basis of the principal approach and one (1) adjacent face if such face also fronts on a public street, shopping center driveway or pedestrian mall or walkway.
 - c. Frontage on a service driveway to an unloading area shall not be considered in determining corner lot status. In addition, the sign area calculated for each building frontage on a corner lot shall relate to that frontage only and shall not be applied to the sign area for another frontage.

- d. Letters painted on or affixed to a building shall be included on the computation of the total exposed sign area.
 - e. Such signs shall be erected only on the premises on which the use to which the sign pertains is conducted.
2. Wall Sign. One (1) shall be permitted for each use. Such a sign shall not exceed fifteen (15%) percent of the area of the wall on which the sign is located, and in no case shall exceed twenty (20) feet in width.
3. Freestanding Sign.
- a. Not to exceed thirty-two (32) square feet in area. No more than one (1) freestanding sign shall be permitted on each street frontage.
 - b. Freestanding business signs may be located no closer to a side, front or rear property boundary line than the greater of:
 - 1) Fifteen (15) feet;
 - 2) A distance equivalent to the height of the sign;
 - 3) The minimum side of rear yard required for the permitted use being identified.
 - c. No freestanding sign shall exceed twelve (12) feet in height when measured from ground level except the maximum height may be increased two (2) feet (up to a maximum of twenty (20) feet) for each additional five (5) feet of setback from the front property line beyond the prescribed minimum.
4. Window Sign. Not to exceed twenty (20%) percent of the window area to which it is attached.
- D. Signs relating to a commercial establishment in a structure containing more than one (1) establishment, such as a planned commercial development, in accordance with the following regulations:
- 1. Wall Sign. One (1) shall be permitted for each establishment. Such a sign shall not exceed ten (10) square feet of area for each lineal foot of building wall, and in no case shall exceed thirty (30) feet in width or thirty-two (32) square feet in area.
 - 2. Freestanding Sign. One (1) such sign is permitted to identify a center not to exceed one (1) square foot for each two (2) feet of lineal lot frontage of fifty (50) square feet, whichever is smaller. No more than one (1) such sign shall be permitted on each street frontage.
 - 3. Window Sign. Not to exceed twenty (20%) percent of the window area in which it is attached.

4. Design. All signs shall be of the same design and be architecturally compatible with the structure.

SECTION 1410. SIGN PERMITS AND BONDS.

- A. A sign permit shall be required for all signs except real estate, having any face exceeding four (4) square feet in area, and such signs shall be subject to annual inspection, unless otherwise provided. All illuminated signs shall, in addition, be in accordance with the National Electrical Code. Satisfactory evidence to structure durability shall be provided to the Township.
- B. The application for sign permits shall be filed in duplicate and on forms furnished by the Township and shall be accompanied by detailed plans and specifications and such other information deemed necessary by the Zoning Officer to determine the location and details of construction of such sign.
- C. Before any permit will be issued for any sign erected and/or projecting over property used by the public, a certificate of insurance or an indemnity bond payable to Elk Township in a form and amount set by the resolution, shall be posted. Only one (1) such bond or liability policy need be posted for the owner of the sign.
- D. No permit to erect shall be issued until a fee has been paid to the Township in such amount as the Board of Supervisors shall establish by resolution.
- E. All applications for sign permits shall be accompanied by the property owner's written consent if the property owner is not the owner of the sign.
- F. Signs deemed by the Zoning Officer to be illegal or without permit, shall be removed within three (3) days of written notification by the Zoning Officer. Any recurrence of a similar infraction on the premises by the owner or lessee shall be in violation of this Ordinance and shall be punishable in accordance with the provisions of Article XV.

ARTICLE XV
ADMINISTRATION AND ENFORCEMENT

SECTION 1500. APPLICABILITY AND ADMINISTRATION

A. Application.

1. Hereafter no land shall be used or occupied, and no building or structure shall be created, erected, altered, used or occupied except in conformity with the regulations herein established for the districts in which such land, building or structure is located, as well as all other applicable statutes.
2. In case of mixed occupancy within the same building or on the same lot, the regulations for each use shall apply to that portion of the building or land so used.

B. Appointment of the Zoning Officer.

1. There shall be a Zoning Officer who shall be appointed by the Board of Supervisors and whose duty shall be and is hereby given the power and authority to administer and enforce the provisions of this Ordinance in accordance with the provisions of Article XVII.
2. The Zoning Officer shall not hold any elective office in the Township and shall meet the qualifications established by the Board of Supervisors. The Zoning Officer shall be required to demonstrate, to the satisfaction of the Board of Supervisors, a working knowledge of municipal zoning.
3. The Zoning Officer shall serve at the pleasure of the Board of Supervisors and shall be removed from office at the sole discretion of the Board.
4. The compensation of the Zoning Officer shall be determined by the Board of Supervisors and may be modified at the discretion of the Board.
5. The Board of Supervisors may appoint an assistant or deputy Zoning Officer(s) as the Board, in its discretion, deems appropriate.

C. The duties of the Zoning Officer shall be:

1. To receive and examine all applications for zoning and sign permits required by this Ordinance.
2. To issue permits only for construction and uses which are in accordance with the regulations of this Ordinance and as may be subsequently amended.
3. To record and file all applications for permits and accompanying plans and documents under this Ordinance and keep them for public record.
4. To review all applications for special exceptions and variances before the Zoning Hearing Board and issue permits for uses by special exception and variances only

after such uses and buildings are ordered by the Zoning Hearing Board in accordance with the regulations of this Ordinance, or Court of Appeals, subject to any stipulations contained in such order.

5. To inspect nonconforming uses, buildings and lots, and to keep a filed record of such nonconforming uses and buildings as a public record, and to examine them periodically as directed by the Board of Supervisors.
6. Upon the request of the Board of Supervisors or the Zoning Hearing Board, the Planning Commission or other Township body to present to such bodies facts, records, and any similar information on specific requests to assist such bodies in reaching its decision.
7. To be responsible for maintaining an up-to-date copy of this Ordinance and the Zoning Map, filed with the Township Secretary and to include any amendments thereto.
 - a. To be responsible for the administration of the National Flood Insurance Program in Elk Township and specifically in those areas where records must be maintained relative to the types of land use permitted and occurring within the floodplain district, variances issued, base flood elevations, elevation of lowest floor, including basement, the elevation to which the structure is flood-proofed and other functions necessary for participation in the National Flood Insurance Program.
 - b. To notify in revering situations, adjacent communities and the State Coordinating Office prior to any alteration or relocation of a watercourse, and submit copies of such notifications to the Administrator.
 - c. To assure the flood carrying capacity within the altered or relocated portion of any watercourse is maintained.
8. To be responsible for applicable provisions included in all other codes, ordinances and regulations that are applied insofar as they are consistent with the Township's needs to minimize the hazard and damage which may result from flooding.
9. To make inspections as required to fulfill his duties. The Zoning Officer shall have the right, with the owner's permission, to enter any building or structure or to enter upon any land at any reasonable hour in the course of his duties.
10. To issue certificates of use and occupancy in accordance with the terms of this Ordinance.
11. To issue enforcement notices where it is determined that a violation exists and to report the issuance and the facts surrounding the determination to the Board of Supervisors.

12. With the consent and approval of the Board of Supervisors and in conjunction with the Township Solicitor, to pursue such causes of action and enforcement remedies as herein provided or otherwise authorized by law to secure compliance with the terms of this Ordinance.

SECTION 1501. VIOLATIONS OF ZONING ORDINANCE AND NOTICE OF VIOLATION

- A. Failure to secure a permit prior to the change in use of land or buildings or the erection, enlargement or alteration, demolition of a building or failure to secure a use and occupancy permit or any other permit required by this Ordinance shall be a violation of this Ordinance.
- B. If the Zoning Officer shall find that any of the provisions of this Ordinance are being violated, he shall notify in writing the person responsible for such violation. Such notice shall state at least the following:
 1. The name of the owner of record and any other person against whom the Township intends to take action.
 2. The location of the property in violation.
 3. The specific violation with a description of the requirements which have not been met, citing in each instance the applicable provision of this Ordinance.
 4. The date before which the steps for compliance must be commenced and the date before which the steps must be completed.
 5. That the recipient of the notice has the right to appeal to the Zoning Hearing Board within thirty (30) days in accordance with the procedures set forth in this Ordinance.
 6. That the failure to comply with the notice within the time specified, unless extended by appeal to the Zoning Hearing Board, constitutes a violation, with possible sanctions as defined in Section 1503.

The Zoning Officer shall order discontinuance of illegal use of land, building or structure; removal of illegal building or structures or additions, alterations or structural changes thereto; discontinuance of any illegal work being done or shall take any other action authorized by this Ordinance to insure compliance with or prevent violation of its provisions.

- C. The Notice of Violation shall be delivered in person by the Zoning Officer or shall be mailed by certified mail to the person or entity responsible. Orders of the Zoning Officer shall become effective within the time provided in the order, but in no event less than one (1) nor more than thirty (30) days from receipt of notice. The Zoning Officer shall allow, within the time specified above, for compliance with orders.

- D. Repeat violation of an initial notification as to violation of an Ordinance provision shall constitute forfeiture of subsequent notices and result in the fines as provided in Section 1303.
- E. **Complaints Regarding Violations.** Whenever a violation of this Ordinance occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint stating fully the causes and basis thereof shall be filed with the Zoning Officer. He shall record properly such complaint, investigate, and take action thereon as provided by this Ordinance.

SECTION 1502. CAUSES OF ACTION.

- A. In case any building or structure is erected, constructed, reconstructed, altered, repaired, demolished, converted or maintained, or any building structure or land is used, or any hedge, tree, shrub or other growth is maintained in violation of this Ordinance or of any regulations made pursuant thereto, in addition to other remedies provided by law, any appropriate action or proceedings, whether by legal process or otherwise, may be instituted or taken to prevent, restrain or enjoin such unlawful erection, construction, reconstruction, alteration, repair, conversion, demolition, maintenance or use; to restrain, correct or abate such violation; to prevent the occupancy of said building, structure, or land, or to prevent any illegal act, conduct, business or use in or about such premises.
- B. When any such action is instituted by a landowner or tenant, notice of that action shall be served upon the Township at least thirty (30) days prior to the time the action is begun by serving a notice of a complaint on the Zoning Officer. No such action may be maintained until such notice has been given.

SECTION 1503. ENFORCEMENT REMEDY.

Liability for violation results in a civil judgement of no more than \$500.00 plus costs and attorney fees incurred by the Township of Elk, but no violation shall be deemed to have occurred nor any judgement commenced, imposed, or paid until a final determination is made.

- A. In case the litigant fails to pay or appeal the judgement in a timely matter, the Township may enforce the judgement pursuant to applicable rules of civil procedure.
- B. Each day that a violation is continued shall constitute a separate violation, unless it is determined that there was a good-faith basis existed for the violation in which case there shall be deemed only one (1) violation until the fifth (5th) day following the violation; thereafter each day shall constitute a separate violation.
- C. All judgements, costs, and reasonable attorney's fees collected for the violation of the Zoning Ordinance shall be paid over to the general fund of Elk Township.

SECTION 1504. FINANCES AND EXPENDITURES.

- A. The Board of Supervisors may appropriate funds to finance the preparation of zoning ordinance regulations and shall appropriate funds for the administration, for the enforcement and for actions to support or oppose upon the appeal to the courts, decisions of the Board of Supervisors and/or Zoning Hearing Board, and the operations of the Zoning Officer.
- B. The Board of Supervisors shall make provision in its budget and appropriate funds for the operation of the Zoning Hearing Board and the operations of the Zoning Officer.
- C. The Zoning Hearing Board may employ or contract for and fix the compensation of legal counsel as the need arises and as approved by the Board of Supervisors. The legal counsel shall be an attorney other than the Elk Township Solicitor. The Board may also employ or contract for and fix the compensation of experts and other staff and make contract for services as it shall deem necessary. The compensation of legal counsel, experts and staff and the sums expended for services shall not exceed the amount appropriated by the Board of Supervisors for this use.
- D. The Board of Supervisors may prescribe reasonable fees with respect to the administration of the Zoning Ordinance and with respect to hearings before the Zoning Hearing Board. Fees for these hearings may include compensation for the Secretary and members of the Zoning Hearing Board, notice advertising costs and necessary administrative overhead connected with the hearing. The costs, however, shall not include legal expenses of the Zoning Hearing Board, expenses engineering, architectural, or other technical consultants or expert witness costs. The fees and the method of payment thereof shall be prescribed by resolution of the Board of Supervisors.

SECTION 1505. EXEMPTIONS.

- A. The Zoning Ordinance and the provisions thereof shall not apply to any existing buildings or extensions thereof used or to be used by a public utility corporation if, upon petition of the corporation, the Pennsylvania Utility Commission shall, after a public hearing, decide that the present or proposed situation of the buildings in question is reasonably necessary for the convenience or welfare of the public.
- B. It shall be the responsibility of the Pennsylvania Public Utilities Commission and the applicant to ensure that both the corporation and the Township have notice of the hearing and are granted an opportunity to appear, present witnesses, cross-examine witnesses presented by other parties and otherwise exercise the rights of a party to the proceedings.
- C. The provisions of this Ordinance shall not apply to Elk Township Government facilities, operations, nor to any building or land of the Township or extension thereof, or to the use of any premises by the Township, nor shall its provisions be construed to apply in any way to any building, lands or premises owned or operated by the Township.

SECTION 1506. PERMIT REGULATIONS.

A. General Permit Regulations.

1. Application for zoning-related permits shall be made in writing on an appropriate form to the Zoning Officer and shall contain all information necessary for such Officer to ascertain whether the proposed use of land or improvement under the application complies with the provisions of this Ordinance and all other existing statutes. The required information may include, but shall not be limited to the following:
 - a. Actual dimensions and shape of lot to be built on;
 - b. The exact size and location of the lot of buildings, structures, or signs existing and or proposed extensions thereto;
 - c. The number of dwelling units, if applicable;
 - d. Parking spaces provided and/or loading facilities;
 - e. Statement indicating the existing or proposed use;
 - f. Height of structures, building, or sign;
 - g. Soil conservation plan if applicable; and
 - h. All other information necessary for such Zoning Officer to determine conformance with and provide for enforcement of this Ordinance.
2. Applications for permits required under this Ordinance, along with accompanying plans and data, may be submitted by an applicant or a designated representative thereof, however, responsibility for obtaining any required permit and compliance with existing statutes shall rest with the property owner.
3. No permit shall be issued except in conformity with the regulations of this Ordinance, the State Building Code, and other existing statutes, except after written order from the Zoning Hearing Board or the courts. Permission for any permits issued on written order of the Zoning Hearing Board or the courts shall be subject to any stipulation contained in that order.
4. In all instances in which the Zoning Officer expresses a reasonable doubt as to the ability of a proposed use to meet all the requirements of this Ordinance, it will be incumbent upon the applicant to furnish adequate evidence in support of this application. If such evidence is not presented, the zoning permit will be denied.
5. The parcel or parcels of land or buildings or parts of buildings for which an application is being submitted shall be in full ownership or proof of equitable ownership shall be furnished at the time of application.

6. No application is complete until all the necessary documents have been filed and fees have been paid.

- B. **Fees.** All permit fees under this Ordinance shall be determined by a resolution of the Board of Supervisors and a schedule of such shall be made available to the general public. The Board shall be empowered to re-evaluate the fee schedule and make necessary alterations to it. Such alterations shall not be considered an amendment to this Ordinance and may be adopted at any public meeting of the Board of Supervisors by resolution.

- C. **Issuance or Refusal of Permits.** If the Zoning Officer determines that an application is in compliance with the provisions of this Ordinance, it shall be his duty to issue the appropriate permit. If he determines that an application is not in compliance with the provisions of this Ordinance, it shall be his duty to refuse the permit, in which case he shall instruct the applicant in the method of appeal or application to the Zoning Hearing Board.

- D. **Notification to Applicant.** All applicants for permits or certificates shall be given written notice of the status of the application within thirty (30) days, unless otherwise specified. When an application is refused, the Zoning Officer shall specify the reasons for the refusal.
 1. If the Zoning Officer determines that an application is in compliance with the provisions of this Ordinance, it shall be his duty to issue the appropriate permit.
 2. If the Zoning Officer determines that an application is not in compliance with the provisions of this Ordinance, it shall be his duty to review the permit, in which case he shall instruct the applicant in the method of appeal or application to the Zoning Hearing Board, as set forth herein.

- E. **Applications for permits.** Applications for permits, under this Section, along with accompanying plans and data, may be submitted by the Zoning Officer to the Township Engineer for the Engineer's technical review and comment.
 1. The Engineer shall review the material to determine that the proposed development is in harmony with this Ordinance and the Township Comprehensive Plan.
 2. The Township Engineer shall make his comments on the application within twenty (20) days of its receipt. The Zoning Officer shall take into consideration the comments of the Township Engineer in his approval or denial of the application.

SECTION 1507. ZONING PERMITS.

- A. A zoning permit shall be required prior to:
1. A change in use of land or buildings;
 2. A change in the principal use or extension or enlargement of a nonconforming use; or
 3. An application for development or disturbance within the Floodplain Conservation District.
 4. Construction or placement of a structure.
 5. Submission of an application for a building permit.
- B. The placing of vacant land under cultivation shall not require a zoning permit. It shall be unlawful to commence any site work or other work requiring a zoning permit until a permit has been properly issued therefor.
- C. **Application for Zoning Permits.** Application for permits under this Section, along with accompanying plans and data, may be submitted by the Zoning Officer to any appropriate governmental agency, authority or representative for review and comment relative to compliance with existing statutes and the Zoning Officer shall consider those comments in action on the application. All applications shall be accompanied by:
1. Three (3) copies of the approved land development and/or plot plan together with any other data and information required by the Zoning Officer to evaluate compliance with this Ordinance and other existing statutes.
 2. Three (3) copies of detailed architectural plans for any proposed building or structure under the application.
 3. Wherein the disturbance or movement of earth is contemplated, a soil and erosion control plan with an accompanying narrative prepared by a qualified person for review and approval by the Township Engineer, or, when applicable, a copy of the permit issued by the Pennsylvania Department of Environmental Protection approving earth moving operations. The standards set forth in the Stormwater Management Section of the Township Subdivision and Land Development Ordinance shall apply.
 4. Permits or certification from the appropriate agency for the provision of a healthful water supply, disposal of sewage and other wastes, and control or objectionable effects as well as any other appropriate, lawful permits as may be required by statute.
 5. Additional copies of any information may be required by the Zoning Officer.
 6. Permits shall be granted or refused within thirty (30) days upon satisfaction of the Township that all supplemental information has been supplied.

7. You must apply for a permit and permission for a driveway.
8. All applicable PennDOT permits.

D. **Temporary Zoning Permits.** A temporary zoning permit may be authorized by the Zoning Officer for a nonconforming structure or use which it deems beneficial to the public health or general welfare or which it deems necessary to promote the proper development of the community, provided that such nonconforming structure or use shall be completely removed upon expiration of the permit without cost to the Township. Such a permit shall be issued for a specified period of time, not exceeding one (1) year.

SECTION 1508. SIGN PERMITS.

- A. A sign permit shall be required prior to the erection or modification of any sign, sign structure or change in location of an existing sign, with the exception of those signs exempted in Section 1405.
- B. **Application for a Permit.** Application shall be made in writing on an appropriate form to the Zoning Officer and shall contain all information necessary for such officer to determine whether the proposed sign, or the proposed alteration, conform to all the requirements of this Ordinance. All applications for sign permits shall be accompanied by plans or diagrams in duplicate and approximately to scale showing the information required by this Ordinance. One (1) copy of said plan or diagram shall be returned to applicant, after the Zoning Officer shall have marked such copy either approved or disapproved, and attested to same.
1. Permits shall be granted or refused within thirty (30) days from date of application.
 2. No sign permit shall be issued except in conformity with the regulations of this Ordinance, or except after written order from the Zoning Hearing Board, or the courts.
 3. All applications for sign permits shall be accompanied by plans or diagrams in duplicate and approximately to scale, showing the following:
 - a. Dimensions of the lot (including any right-of-way lines) and/or building upon which the sign is proposed to be erected.
 - b. Size, dimensions and location of the said sign on lot or building, together with its type, construction, materials to be used, and the manner of installation.
 - c. Any other lawful information which may be required of applicant by the Zoning Officer. One (1) copy of said plan or diagram shall be returned to applicant, after the Zoning Officer shall have marked such copy either approved or disapproved, and attested to same.

SECTION 1509. BUILDING PERMITS.

- A. **Requirements of Building Permits.** A building permit shall be required prior to the erection or alteration of or addition to, any building or other structure or portion thereof. It shall be unlawful for any person to commence work for the erection or alteration of, or addition to, any building or other structure or portion thereof until a building permit has been duly issued therefor, except as provided by special exception.
- B. A valid zoning permit is required prior to application for a building permit.
- C. Application for and issuance of building permits shall be in accordance with the Elk Township Building Code as defined in Ordinance No. 2004-02.

SECTION 1510. PERMIT PROCEDURE FOR ANTENNA FOR SATELLITE COMMUNICATION.

- A. A permit shall be required prior to the erection or installation of all communication towers and antenna for satellite communication, provided a temporary installation of a portable unit, not to exceed seven (7) days, shall be permitted without a permit for the purpose of determining the suitability of the site for a permanent antenna installation.
- B. All applications for a microwave antenna permit shall be made to the Zoning Officer in writing on a form furnished by the Township and shall be accompanied by plans, in duplicate and to scale, showing:
 - 1. For Residential and Non-Residential Installations:
 - a. The dimensions of the lot and location of the buildings thereon;
 - b. Details of all communication towers and antenna anchors, supports and foundations, the exact size of the antenna, including dish, and the exact proposed location of the microwave antenna on the lot;
 - c. When communication towers, antennas, etc. are attached to an existing structure, details of how microwave antenna loads will be distributed to the existing structure.
 - 2. For Roof-Mounted Non-Residential Installations:
 - a. Design wind load on each anchor and allowable wind load on each anchor;
 - b. Forces on foundation, including live load and dead load;
 - c. Strength and allowable stresses of cables, rods or braces and the actual force and allowable force for each cable, rod, or brace.
- C. If the manufacturer's specifications submitted with the application specify the installation criteria for subsection 1510.B.2.a-c., above, they shall be made part of the plan and

separate calculations shall not be required. The Zoning Officer may waive subsection 1510.B.2.a-c., above, if he determines them not applicable to the installation.

- D. Issuance or refusal of permits and notification to the applicant shall be in conformance with Section 1506.C.
- E. The permit fee shall be in such amount as established by resolution of the Board of supervisors.

SECTION 1511. USE AND OCCUPANCY PERMITS.

- A. **Requirements for Use and Occupancy Permits.** It shall be unlawful for the applicant, person or other entity to sell or occupy any building or other structure or parcel of land until an occupancy permit, if required, has been duly issued therefor. Occupancy permits shall be required prior to any of the following:
 - 1. Occupancy of any parcel of land, building or other structure hereinafter erected, altered or enlarged for which a zoning permit or sign permit is required.
 - 2. For all commercial and industrial uses, a change of ownership or use of any parcel of land, building, or other structure for which a zoning permit has been issued under this or previous Zoning Ordinance.
 - 3. For new construction in all zoning districts prior to sale.
- B. **Application Procedures.** All applications for use and occupancy permits shall be made in writing on forms furnished by the Township and shall include all information necessary to enable the Zoning Officer to ascertain compliance with this Ordinance.
- C. **Issuance.** No use and occupancy permit shall be issued until the Zoning Officer has certified that the proposed use complies with all the provisions of this Ordinance and any other applicable ordinance.
 - 1. Use and occupancy permits shall be granted or refused within ten (10) days from the date of application. No application shall be granted or refused until the Zoning Officer has inspected the premises. Issuance of this permit by the Township Official or employee designated by the Zoning Officer shall be based in conformity of the work to the requirements of this Ordinance and any other pertinent ordinance.
 - 2. Pending completion of a building or of alterations thereto, temporary use and occupancy permit may be issued by the Zoning Officer for a temporary occupancy of part or all of the building, provided that such temporary occupancy will not adversely affect the health, safety, and welfare of the public or property, and providing further that a time limit for temporary permits not exceeding six (6) months shall be established.
 - 3. In commercial and industrial districts in which performance standards are imposed or when required by the Zoning Officer, no use and occupancy permit

shall become permanent until sixty (60) days after the facility is fully operating, when upon a re-inspection by the Zoning Officer it is determined that the facility is in compliance with all performance standards.

SECTION 1512. CONDITIONAL USES.

A. Requirements for a Conditional Use Application. An application for a conditional use shall be filed with the Board of Supervisors, and shall state:

1. The name and address of the applicant.
2. The name and address of the owner of the real estate to be affected by the proposed conditional use application.
3. A description and location of the real estate on which the conditional use is proposed.
4. A statement of the present zoning classification of the real estate in question, the improvements thereon, and the present use thereof.
5. A statement of the Section of this Ordinance which authorizes the conditional use.
6. An accurate description of the present improvements and the additions intended to be made under the application for conditional use, including the size of proposed improvements, material and general construction features. The application shall be accompanied by a proposed plan showing the size and location of the proposed use, the location of all proposed buildings, all proposed facilities, including access drives and parking areas, and dimensional features demonstrating compliance with the applicable area, width, coverage, yard and design standards.

B. The application for a conditional use shall be filed with the Secretary of the Township on such forms as may be prescribed for that purpose, and shall be accompanied by the application fee, prescribed from time to time, by the Board of Supervisors. No application shall be considered for filing unless accompanied by the required filing fee. The Secretary shall submit the application to the Township Planning Commission at their next advertised meeting, and the Planning Commission shall review the application and make a recommendation to the Board of Supervisors within thirty (30) days thereafter.

C. The Board of Supervisors shall hold an advertised public hearing on the conditional use application in accordance with the following procedures:

1. Notice of the hearing shall be given to the public by publication in newspaper of general circulation in the Township at least twice, the first such notice to be not less than ten (10) days prior to the date of the scheduled hearing. Additionally, like notice thereof shall be given to the applicant, the Zoning Officer, and to neighbors within five hundred (500) feet of the property, and to any person who has made timely written request for same. Notice of the hearing shall be conspicuously posted on the affected tract of land.

2. The Board of Supervisors shall conduct its first hearing on the application within sixty (60) days from the date the application is filed with the Township Secretary, and complete the hearing no later than one hundred (100) days after the completion of the applicant's case in chief, or the applicant will receive deemed approval unless the applicant has agreed in writing or on record to an extension of time. The Township may apply to the court of common pleas for additional time for good cause shown in the event it cannot render a decision within one hundred (100) days. When a decision has been rendered in favor of the applicant because of the failure of the Board to meet or render a decision as required, the Board 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 public notice requirements. If the governing body fails to provide the notice, the applicant may do so.
 3. The parties to the hearing shall be the municipality, any person affected by the application who has made timely appearance of the record before the Board of Supervisors, and any other person, including civic or community organizations permitted to appear by the Board. The Board shall have the power to require that all persons who wish to be considered parties enter written appearances on forms provided by the Board for that purpose.
 4. The Chairman or Acting Chairman of the Board shall have power to administer oaths and issue subpoenas to compel the attendance of witnesses and the production of relevant documents and papers, including witnesses and documents requested by the parties.
 5. Formal rules of evidence shall not apply, but irrelevant, immaterial, or unduly repetitious evidence may be excluded.
 6. The Board of Supervisors shall keep a stenographic record of the proceedings and a transcript of the proceedings and copies of the tape or written material received in evidence shall be made available to any party at cost.
 7. A copy of the final decision shall be delivered, by certified mail, to the applicant and the parties before the Board personally, or mailed to them not later than the day following the date of the decision.
- C. In granting or denying a conditional use or establishing conditions with reference to such grants, the Board of Supervisors may use as a guide in evaluating a proposed conditional use, and may determine to be mandatory those standards established for review of special exception applications in Section 1706.D. The burden of establishing compliance with those enumerated standards shall be upon the applicant by a fair preponderance of the credible evidence. The standards required herein shall be deemed a part of the definitional aspect under which a conditional use may be granted, and the failure of the applicant to establish his compliance with all of the standards shall, at the discretion of the Board of Supervisors, be a basis for disapproval of a conditional use application.
- D. In evaluating an application for conditional use, the Board of Supervisors shall:

1. Ensure compliance with Goals and Objectives of the Township Comprehensive Plan.
2. Give full consideration to the size, scope, extent and character of use proposed and assure itself that such request is consistent with the plan for future land use in the Township and with the spirit, purpose and intent of this Ordinance.
3. Take into consideration, the character and type of development in the area surrounding the location for which the request is made and determine that the proposed change or modification, if permitted, will constitute an appropriate use in the area and will not substantially injure or detract from the use of surrounding property or from the character of the neighborhood.
4. Consider the public interest in, or the need for the proposed use or change, to determine that the proposal will serve the best interest of the Township and protect the public health, safety, and general welfare.
5. Make certain that the proposed use is reasonable in terms of the logical, efficient, and economical extension of public services and facilities, including, but not limited to, public water, sewers, police and fire protection, transportation and public schools.
6. Be guided in its study, review and recommendations by sound standards or subdivision practice where applicable.
7. Review the recommendations of the Planning Commission and the Township Engineer on the proposed development plan, where such plan is required.
8. Guide the development of highway frontage insofar as possible to limit the total number of access points, reduce the need for on-street parking, and encourage the frontage of dwellings on parallel marginal roads or on roads perpendicular to the highway.
9. Consider the effects of the proposal with respect to congestion on the roads or highways, the most appropriate use of land, conserving the value of buildings, safety from fire, panic and other dangers, adequacy of light, and air, the prevention of overcrowding of land congestion of population and adequacy of public and community services and determine that approval of the application will not have a substantially adverse effect hereon.
10. Be assured that the natural features and processes characterizing the proposed site and its surroundings shall not suffer unmitigated degradation, that the management of storm water, the provision of water or sewer service, and any other alterations to the sites, pre-development condition shall be consistent with the Township goals, practices and plans in these regards that demand for water and energy by the proposed use shall be minimized to the optimal extent.
11. Impose such conditions, in addition to those required as are necessary to assure that the intent of this Ordinance is complied with, and which area reasonably necessary to safeguard the health, safety, and general welfare of the residents of

the township at large and the residents and owners of the property adjacent to the area in which the proposed use is to be conducted. Conditions may include, but are not limited to, harmonious design of buildings, aesthetics, hours of operation, lighting, numbers of persons involved, noise, sanitation, safety, smoke and fume control and the minimizing of noxious, offensive or hazardous elements.

- F. Nothing in this Section shall be construed to relieve the applicant for a conditional use approval from obtaining other required approvals mandated by the Township's Subdivision and Land Development Ordinance, or other state, County, federal laws or applicable ordinances.
- G. Appeals from a determination of the Board pursuant to any application for conditional use shall be only as prescribed within such times permitted by the applicable provisions of the Pennsylvania Municipalities Planning Code.
- H. In granting an application for conditional use, the Board may attach such additional reasonable conditions and safeguards as it deems necessary and appropriate to insure compliance with the provisions of this Ordinance and to protect the health, safety and general welfare of the community.
- I. Unless otherwise specified by the Board of Supervisors in its written decision, Conditional Use approval shall expire automatically without written notice of the applicant if no complete application for a land development plan, a building permit, or a use and occupancy permit to construct or institute the approved use is submitted to the Township within twelve (12) months of the date of the written decision of approval by the Board of Supervisors. The Board of Supervisors, in their sole discretion, may extend the Conditional Use approval expiration date upon written request by the applicant received at least thirty (30) days prior to the aforementioned expiration date. Any such extension of time may be granted by the Board of Supervisors for a period of time considered appropriate by the Board of Supervisors. No formal hearing shall be required by the Board of Supervisors in the consideration of an extension application.

SECTION 1513. SCHEDULE OF FEES, CHARGES, AND EXPENSES.

- A. The Board of Supervisors shall establish a schedule of fees, charges, and expenses and collection procedures for zoning permits, certificates of occupancy, special exceptions, variances, appeals, and other matters pertaining to this Ordinance. Such schedule shall be established by resolution of the Board of Supervisors.
- B. The schedule of fees shall be available for inspection in the Township offices and may be altered or amended by the Board of Supervisors.
- C. Until all application fees, charges, and expenses have been paid in full as designated in this Ordinance, no action shall be taken on any application or appeal.

SECTION 1514. LIABILITY.

The granting of any permit under this Ordinance by the Township or any of its designated officials or the use of land or structures or the erection, alteration or extension of any structure or the approval of any subdivision or land development plan shall not constitute a representation, guarantee, or warranty of any kind by the Township or any of its officials or employees as to any manner of injury resulting from such use, erection, alterations or extension, and shall create no liability upon, or a cause of action against such public body, officials or employees for any damages or injury that may result pursuant thereto.

ARTICLE XVI
NONCONFORMING USES, STRUCTURES, LOTS, AND SIGNS

SECTION 1600. APPLICABILITY.

All uses, structures, lots and signs that do not conform to regulations of the district in which they are located, but were in lawful existence prior to the effective date of this Ordinance shall be known and regarded as nonconforming and the following regulations shall apply to them.

SECTION 1601. CONTINUATION.

Any lawful building or other structure, or any lawful use of a building, land, or sign legally existing on the effective date of this Ordinance, or authorized by a building permit issued prior thereto, may be continued in the form evident at the time of adoption of this Ordinance although such use does not conform to the provisions of this Ordinance.

SECTION 1602. NONCONFORMING USE.

A. **Extension, Expansion, or Enlargement.** The nonconforming use of a building or of a lot shall not be extended, expanded, or enlarged so as to use other portions of the building or lot, and a nonconforming building housing a nonconforming or permitted use shall not be extended or structurally altered, except insofar as is permitted by law to assure the structural safety of the building, unless the Zoning Hearing Board shall by special exception as hereinafter provided, authorize the extension, expansion, or enlargement of such use or building. The Zoning Hearing Board, upon proper application, may grant such special exception provided that:

1. It is clear that such extension, expansion, or enlargement is not materially detrimental to the character of the surrounding area or to the interest of the municipality.
2. The area devoted to the nonconforming use shall not be increased by more than a total of fifty (50%) percent. This increase shall occur only once per nonconforming use.
3. Any extension, expansion, or enlargement of the building or of a lot having a nonconforming use shall conform to all area and bulk regulations of the district in which it is situated and to all regulations applicable to such a use in the district or districts in which the nonconforming use shall be limited to the lot which was in existence at the time of adoption of this Ordinance.
4. Any extension, expansion, or enlargement of a nonconforming use must meet the off-street parking and buffering requirements of Article XIII, herein.
5. Exception. All existing properties registered with the Zoning Officer as non-conforming are permitted to add to the existing house as long as the addition does not encroach upon the existing front plane (excluding porch) of the existing structure. Rear and side setbacks are ten (10) feet. Any deviation from this requirement shall require a Zoning Hearing for approval. Any non-conforming existing property that is not registered with the Zoning Officer as non-conforming will require a Zoning Hearing for approval.

- B. **Change of Use.** A nonconforming use may be changed to another nonconforming use by the grant of a special exception only upon determination by the Zoning Hearing Board, after public hearing, that the proposed new use will be similar to or less detrimental to its neighborhood and abutting properties than is the use it is to replace. In evaluating relative detriment, the Zoning Hearing Board shall take into consideration, among other things, potential traffic generation; nuisance characteristics (such as emission of noise, dust, odor, glare, and smoke); fire hazards; and hours and manner of operation. Once changed to a conforming use, no structure or land shall be permitted to revert to a nonconforming use until reapplied to the Zoning Hearing Board of Elk Township.
- C. **Restoration.** A structure containing a nonconforming use involuntarily destroyed (up to seventy-five (75%) percent or less of its value) by fire, explosion, flood or other phenomena, or legally condemned, may be reconstructed and used for the same nonconforming use, provided that:
1. Reconstruction of the structure shall commence within one (1) year from the date the structure was destroyed or condemned and shall be completed within one (1) year of the date commenced.
 2. The reconstructed structures shall not exceed area, bulk, or height regulations of the damaged or destroyed structure, except as provided by subsection A., above.
- D. **Discontinuance.** If a nonconforming use of a building or land is discontinued or otherwise totally ceases for a continuous period of one (1) year or more, subsequent use of such building or land shall conform to the provisions of this Ordinance.
- E. **Abandonment.** If a nonconforming use of a structure or land is raised, removed or abandoned for twelve (12) consecutive months, subsequent use of such building or land shall conform with the regulations of the district in which it is located. However, the same or another nonconforming use shall be allowed provided the request for the nonconforming use is filed and approved by the Board of Supervisors within the twelve (12) month period. The permit application for such approval shall be filed within thirty (30) days after the decision of the Board of Supervisors with regard to the nonconforming use.
- F. **Nonconforming Off-Street Parking.**
1. Where the number of parking spaces presently existing upon a lot is insufficient for the existing use as defined by Section 1304 of this Ordinance, it shall constitute a lawful nonconformity, the insufficiency may continue provided the use for which such parking was established is neither changed, extended, expanded, or enlarged.
 2. Where the number, size, or configuration of parking spaces is lawfully nonconforming with respect to any use, structure, or activity upon a lot, and the applicant seeks to change or enlarge such use or activity, the application or plan shall include the additional parking required in conformance with this Ordinance.

SECTION 1603. NONCONFORMING STRUCTURES

Extension, expansion, or enlargement. Nonconforming structures may be altered, renovated or enlarged provided that such alteration, renovation or enlargement does not increase the floor area of the non conforming structure by more than fifty (50%) percent of the floor area of the structure as it existed on the date when the structure became nonconforming. Such alteration, renovation or enlargement shall be authorized as a special exception by the Zoning Hearing Board.

SECTION 1604. NONCONFORMING LOTS.

- A. A building may be constructed on a nonconforming lot of record in existence at the effective date of this Ordinance under the following circumstances:
1. Any owner of two or more contiguous lots that, if combined, would create a lot of conforming size, shall be required to combine such lots prior to the issuance of a building permit.
 2. A building may be constructed on a lot that is nonconforming solely in respect to lot area requirements, when authorized by the Zoning Officer.
 3. If the side, rear, or front yard setback requirements cannot be met, a special exception may be authorized by the Zoning Hearing Board. Contiguous nonconforming lots under common ownership shall be considered one (1) lot.
- B. No lot area shall be reduced so that the area or width of the lot or the applicable setback dimensions shall be smaller than herein prescribed.
- C. An existing structure located on a lot nonconforming as to area may be used for the use permitted in the district in which it is located, provided the structure complies within all bulk requirement of that district. If a nonconforming structure is located on a nonconforming lot, such structure may be used for a use permitted in the district in which it is located when it is determined by the Zoning Hearing Board on appeal, that the proposed use is not injurious to health, safety, morals, and general welfare of the Township in general and the surrounding property owners in particular.

SECTION 1605. NONCONFORMING SIGNS.

Any existing nonconforming signs, signboards, billboards or advertising device shall either be discontinued and removed, or changed to a conforming sign within the period of five (5) years from the effective date of this Ordinance, subject to the following:

- A. **Moving.** A nonconforming sign may be moved provided that moving such a sign would eliminate the nonconformity. A nonconforming sign shall not be moved to a position where such sign remains nonconforming unless permitted by special exception.
- B. **Area.** The total area of all such signs relating to a single use at the effective date of this Ordinance, or at the effective date of any amendment of this Ordinance by which any sign shall be made nonconforming, shall not be increased.

- C. **Replacement.** No such sign shall be physically altered or replaced unless authorized as a special exception by the Zoning Hearing Board. Nonconforming signs, once removed, may be replaced only by conforming signs unless authorized by the Zoning Hearing Board.
- D. **Discontinuance.** Whenever any nonconforming use of building, structure, or land, or of a combination of buildings, structures, and land ceases as prescribed in 1602.D., all signs accessory to such use shall be deemed to become nonconforming and shall be removed within three (3) calendar months from the date such use terminates.
- E. Every sign for a nonconforming building, structure or use shall either be discontinued and removed, or changed to conform to the specific regulations of the district in which it is located and comply with Article XIV of this Ordinance.

SECTION 1606. REGISTRATION.

In order to facilitate the administration of this Ordinance, the Zoning Officer shall cause to be made and maintained an accurate listing and description of those nonconforming uses and structures which are not permitted as a use by right in the district in which they are located and for which no special exception or variance has been granted. Such listing shall be a matter of public record and shall constitute notice to anyone acquiring any right to use or own such property. Omission or failure in respect to such notice, however, shall in no way modify the status of nonconformity nor shall the Township, its officials, or its employees, be liable for damages as a result of such omission or failure.

**ARTICLE XVII
ZONING HEARING BOARD**

SECTION 1700. ESTABLISHMENT AND MEMBERSHIP.

There shall be a Zoning Hearing Board, appointed by the Board of Supervisors in accordance with Article IX of the Pennsylvania Municipalities Planning Code, as amended. The Zoning Hearing Board shall consist of three (3) members who shall be appointed by the Board of Supervisors and who shall be residents of the municipality. The Board of Supervisors shall designate one (1) such member to serve until the first day of January following the effective date of this Ordinance, one (1) until the first day of the second January thereafter, and one (1) until the first day of the third January thereafter; shall appoint their successors on the expiration of their respective terms to serve three (3) years, and shall fill any vacancy for the unexpired term of any member whose term becomes vacant. Any Board member may be removed for malfeasance, misfeasance or nonfeasance in office or for other just cause by majority vote of the governing body which appointed the member, taken after the member has received fifteen (15) days advance notice of the intent to take such a vote. A hearing will be held in connection with the vote if the member shall request it in writing.

When used hereafter in this Article, the word "Board" shall mean the Zoning Hearing Board.

SECTION 1701. ORGANIZATION.

- A. The Board shall elect, from its members, 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 not be less than a majority of all the members of the Board, but the Board 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 1705.
- B. If, by reason of absence or disqualification of a member, a quorum is not reached, the Chairman of the Zoning Hearing Board shall designate, as many alternate members of the Board to sit on the Board as may be needed to provide a quorum. Any alternate member of the Board shall continue to serve on the Board in all proceedings involving the matter or case for which the alternative was initially appointed, until the Board has made a final determination of the matter or case. Designation of an alternate, pursuant to this Section, shall be made on a case-by-case basis, in rotation, according to declining seniority among all alternates.
- C. The Board may make, alter and rescind rules and forms for its procedure consistent with the provisions of this Ordinance and the laws of the Commonwealth of Pennsylvania. The Board shall keep full public record of its business and shall submit a report of its activities to the Board of Supervisors.

SECTION 1702. APPLICATIONS FOR HEARINGS.

- A. Applications for hearings before the Board shall be filed with the Township Secretary together with the proper fee.
- B. An application for a special exception or variance from the terms of this Ordinance shall state:
 - 1. The name and address of the applicant;
 - 2. The name and address of the owner of the real estate to be affected by the proposed exception or variance;
 - 3. A brief description and location of the real estate to be affected by such proposed change;
 - 4. A statement of the present zoning classification of the real estate in question, the improvements thereon, and the present use thereof;
 - 5. A statement of the Section of this Ordinance under or from which the exception or variance requested may be authorized and reasons why it should be granted;
 - 6. A reasonably accurate description of the present improvements and the additions intended to be made under the application or appeal, if any, indicating the size of such proposed improvements, material, and general construction thereof. In addition there shall be attached a plot plan to scale of the real estate to be affected, indicating the location and size of the lot and size of improvements now erected and proposed to be erected thereon.
- C. Applications for other than special exception or variance from terms of this Ordinance shall contain sufficient written information to fully describe the intended use. Where, in the sole discretion of the Zoning Officer, it is appropriate for the applicant to furnish plans and/or specifications or any other relevant information incident to intended use, such information shall be required to be submitted with the application.
- D. In the event that any required information is not furnished the application shall be refused and the fee returned to the applicant.

SECTION 1703. NOTICE OF HEARINGS.

The Board shall give notice as follows:

- A. By publishing a notice thereof in a newspaper of general circulation within the Township once a week for two (2) successive weeks prior to the date fixed for the hearing.
- B. By mailing notice thereof to the applicant and to any person who has made timely request for same. In addition, notice of said hearing shall be conspicuously posted on the affected tract of land.

- C. By mailing notice thereof to the Township Zoning Officer, to the Chairman of the Township Board of Supervisors and to the Chairman of the Township Planning Commission.
- D. The Board may mail notice thereof to the owner of every lot on the same street within five hundred (500) feet of the lot or building in question on every lot not on the same street within two hundred (200) feet of said lot or building. But failure to give notice, either in part or in full, as stated by this paragraph, shall not invalidate any action taken by the Board.
- E. The notice herein required shall state the name of the applicant, the location of the lot or building and the general nature of the question involved, and the date, time and location of the hearing. In addition thereto, when a hearing is required under Section 1706.B, the notice shall state that the validity of the landowners request, including plans and proposed amendments, may be examined by the public at the Township Building during regular business hours.

SECTION 1704. EXPENDITURES FOR SERVICE - FEES.

- A. Within the limits of funds appropriated by the Board of Supervisors, the Zoning Hearing Board may employ or contract for secretaries, clerks, legal counsel, consultants and other technical and clerical services. Members of the Zoning Hearing Board may receive compensation for the performance of their duties as may be fixed by the Board of Supervisors.
- B. The applicant before the Board shall deposit with the Treasurer of the Township, such a sum of money as set forth in the fee schedule adopted by the Board of Supervisors to pay the cost of the hearing.
- C. The following administrative costs incurred by the Township relative to hearing before the Board shall be paid from the application filing fee:
 - 1. Cost of preparation of required notices;
 - 2. Cost of mailing notices, including postage;
 - 3. Cost of advertising;
 - 4. Cost of posting notice or verification;
 - 5. Duplication or copying costs;
 - 6. Court Reporter's attendance fee;
 - 7. Cost of stenographic record if such record is requested by the Board or the applicant;
 - 8. Other costs related to the application.

D. Continued Hearings and Collection of Fees.

1. In the event more than one (1) hearing is necessary on any application, as promptly as may be possible following the initial hearing, the Board Secretary shall determine the total amount of all taxable costs incurred, and shall deduct same from the application fee. In the event the application fee is, at any time, insufficient to cover the costs incurred or reasonably anticipated to be incurred, the Board Secretary shall notify the applicant, provide the applicant with a written copy of each item of taxable cost, and shall require the applicant to pay, within ten (10) days of such notification, any balance then due together with a further minimum deposit of one-half (1/2) of the initial filing fee. In the event of multiple hearings, all taxable costs shall be reported and collected in accordance with this procedure.
2. The failure of the Board Secretary to demand additional deposits from time to time shall not relieve the applicant of liability for costs, charges, expenses and fees in excess of deposit; and in the event of default, such shall be recovered by such action as is by law provided.
3. All funds deposited by the applicant in excess of the actual cost of the hearing or hearings shall be returned to the applicant upon completion of the proceeding.

SECTION 1705. HEARINGS.

The Board shall conduct hearings and make decisions in accordance with the following requirements:

- A. Hearings of the Board shall be held at the call of the Chairman and at a reasonable time and place for public hearings and notification of said hearing shall be as provided by Section 1703.
- B. The first hearing shall be commenced within sixty (60) days from the filing of the applicant's request, unless the applicant has agreed in writing to an extension. Each subsequent hearing shall be held within forty-five (45) days of the prior hearing, unless otherwise agreed to by the applicant. Any party aggrieved by the schedule or progress of the hearings may apply to the court of common pleas for judicial relief. The hearing shall be completed not later than one hundred (100) days after the completion of the applicant's case in chief, unless extended for good cause upon application to the court of common pleas.
- C. The hearings shall be conducted by the Board or the Board may appoint any member as the Hearing Officer. The decision, or where no decision is called for, the findings shall be made by the Board, but the parties may waive decision or findings by the Board and accept the decision or findings of the Hearing Officer as final.
- D. The parties to the hearing shall be any person who is entitled to notice under Section 1703 above without special request therefore who has made timely appearance of record before the Board and any other person permitted to appear by the Board.

- E. The Chairman or Acting Chairman of the Board or the Hearing Officer presiding shall have power to administer oaths and issue subpoenas to compel the attendance of witnesses and the production of relevant documents and papers, including witnesses and documents requested by the parties.
- F. The parties shall have the right to be represented by counsel and shall be afforded the opportunity to respond and present evidence and argument and cross-examine adverse witnesses on all relevant issues.
- G. Formal rules of evidence shall not apply, but irrelevant, immaterial, unduly repetitious and hearsay evidence may be excluded and other inadmissible evidence may be excluded at the discretion of the Board.
- H. The Board or Hearing Officer, as the case may be, shall keep a stenographic record of the proceedings and a transcript of the proceedings and copies of graphic or written material received in evidence shall be made available to any party at cost.
- I. The Board or the Hearing Officer shall not communicate, directly or indirectly, with any party or his representatives in connection with any issue involved, except upon notice of any communication, reports, staff memoranda, or other materials, unless the parties are afforded an opportunity to contest the material so noticed and shall not inspect the site or its surroundings with any party or his representative after the commencement of the hearing unless all parties are given an opportunity to be present.
- J. At any time prior to rendering its written decision, the Board may consult with the Planning Commission, Township Engineer, or any other body for the purpose of resolving technical consideration relative to an application before it, and may at its discretion include the recommendation of said consultants in its final decision.
- K. The Board or the Hearing Officer, as the case may be, shall render a written decision, or when no decision is called for, make written findings on the application within forty-five (45) days after the last hearing before the Hearing Board or Hearing Officer. Each decision shall be accompanied by findings and conclusions based thereon, together with the reasons therefor. Conclusions based on any provisions of this Ordinance or of any act, rule or regulation shall contain a reference to the provision relied on and the reasons why the conclusion is deemed appropriate in the light of the facts found. If the hearing is conducted by the Hearing Officer and there has been no stipulation that this decision or findings are final, the Board shall make its report and recommendation available to the parties, and the parties shall be entitled to make written representations thereon to the Board prior to final decision or entry of findings. Where the Board has power to render a decision and the Board or the Hearing Officer, as the case may be, fails to render the same within the forty-five (45) day period required by this clause, and unless the applicant has agreed or shall agree in writing to an extension of time, the decision shall be deemed to have been rendered in favor of the applicant.
- L. A copy of the final decision, or where no decision is called for, of the findings, shall be delivered to the applicant personally or mailed to him not later than the day following its date. To all other persons who have filed their name and address with the Board not later than the last day of the hearing, the Board shall provide, by mail or otherwise, brief notice of the decision or findings and a statement of the place at which the full decision or findings may be examined.

SECTION 1706. FUNCTIONS.

The Board shall have the following functions:

- A. **Appeals from the Zoning Officer.** The Board shall hear and decide appeals where it is alleged by the applicant that the Zoning Officer has failed to follow prescribed procedures or has misinterpreted or misapplied any provision of a valid ordinance or zoning map or any valid rule or regulation governing the action of the Zoning Officer.
- B. **Challenge the Validity of the Zoning Ordinance or Zoning Map.** The Board shall hear challenges to the validity of a zoning ordinance or map as follows:
 - 1. Procedural questions of an alleged defect in the process of enactment or adoption of any ordinance or zoning map shall be raised by an appeal taken directly from the Board of Supervisors to the court, filed not less than thirty (30) days from the effective date of the ordinance or map.
 - 2. A landowner who, on substantive grounds, desires to challenge the validity of an ordinance or map or any provision thereof which prohibits or restricts the use of development of land in which he has an interest shall submit the challenge to either the Zoning Hearing Board or the Board of Supervisors.
 - 3. In all such challenges the Board shall decide all contested questions and shall make findings on all relevant issues of fact and of interpretation, and submit such findings as part of the record on appeal to the court.
- C. **Variances.** The Board shall hear and decide requests for variances where it is alleged that the provisions of this Ordinance inflict unnecessary hardship on the applicant. The Board may by rule prescribe the form of application as provided by Section 1702. The Board may grant a variance provided 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 property.
 - 3. That such unnecessary hardship has not been created by the applicant.
 - 4. That the variance, if authorized, will neither 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 in the case where the property in part or totally is located within the regulatory floodplain:
 - a. The granting of a variance will not increase the base flood elevation.
 - b. Where the issuing of a variance will permit the construction of a structure or portion thereof below the base flood elevation in the Floodplain Conservation District, the applicant shall be notified in writing over the signature of the Township Zoning Officer that the construction or location of a structure below the base flood elevation will increase the risk to life and property and that flood insurance premium rates for the affected structure will increase. A record of all variance actions including the reasons and justification for the issuance of the variance shall be maintained.
6. 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 Hearing Board may attach such reasonable conditions and safeguards, as it may deem necessary to implement the purposes of this Ordinance.

D. Special Exceptions. The Board shall hear and decide requests for special exceptions where the Ordinance has stated special exceptions are to be granted by the Board pursuant to the following express standards and criteria in addition to such other considerations and determinations as may be required by law and other provisions of this Ordinance. The Board shall:

1. Give full consideration to the size, scope, extent, and character of the exception desired and assure itself that such request is consistent with the plan for future land use in Elk and with the spirit, purpose and intent of the Zoning Ordinance.
2. Take into consideration the character and type of development in the area surrounding the location for which the request is made and determine that the proposed change or modification, if permitted, will constitute an appropriate use in the area and will not substantially injure or detract from the use of surrounding property or from the character of the neighborhood.
3. Consider the public interest in, or the need for the proposed use or change, to determine that the proposal will serve the best interest of the Township, the convenience of the community (where applicable) and the public health, safety, morals and general welfare.
4. Make certain that the proposed change is reasonable in terms of the logical, efficient, and economical extension of public services and facilities, including, but not limited to, public water, sewers, police and fire protection, transportation and public schools.
5. Be guided in its study, review and recommendations by sound standards or subdivision practice where applicable.

6. Review the recommendations of the Planning Commission on the Proposed Development Plan, where such plan is required. The Board shall not be bound by such recommendations nor shall the Board be bound by the action of the Board of Supervisors in relation to the Development Plan.
 7. Guide the development of highway frontage insofar as possible to limit the total number of access points, reduce the need for on-street parking, and encourage the frontage of buildings on parallel marginal roads or on roads perpendicular to the highway.
 8. Consider, where pertinent, the effects of the proposal with respect to congestion on the roads or highways, the most appropriate use of land, conserving the value of buildings, safety from fire, panic, and other dangers, adequacy of light and air, the prevention of overcrowding of land, congestion of population and adequacy of public and community services and determine that approval of the application will not have a substantially adverse effect thereon.
 9. Be assured that the natural features and processes characterizing the proposed site and its surroundings shall not suffer unmitigated degradation, that the management of storm waste, the provision of water or sewer service, and any other alterations to the site's pre-development condition shall be consistent with the Township goals, practices, and plans in these regards, and that demand for water and energy by the proposed use shall be minimized to the optimal extent.
 10. Impose such conditions, in addition to those required as are necessary to assure that the intent of the Zoning Ordinance is complied with, and which are reasonably necessary to safeguard the health, safety, morals and general welfare of the residents of the Township at large and the residents and owners of the property adjacent to the area in which the proposed use is to be conducted. Conditions may include, but are not limited to, harmonious design of buildings, aesthetics, hours of operation, lighting, numbers of persons involved, noise, sanitation, safety, smoke and fume control and the minimizing of noxious, offensive or hazardous elements.
 - a. Special Conditions. In addition to conforming to the general standards above, and all other applicable regulations contained in this Ordinance, the proposed special exception must conform to all conditions for that use as follows:
 - 1) Require that all commercial or industrial parking, loading, access or service areas shall be adequately illuminated at night while in use; and
 - 2) Lighting, including sign lighting, shall be arranged so as to protect the highway and neighboring properties from discomfort or hazardous interference of any kind.
- E. **Unified Appeals.** Where the Board has jurisdiction over a zoning matter, the Board shall also hear all appeals which an applicant may elect to bring before it with respect to any municipal ordinance or requirement pertaining to the same development plan or development. In any such case, the Board shall have no power to pass upon the non-

zoning issues, but shall take evidence and make a record thereon. At the conclusion of the hearing, the Board shall make findings on all relevant issues of fact which shall become part of the record on appeal to the court.

SECTION 1707. EXPIRATION OF SPECIAL EXCEPTIONS AND VARIANCES.

- A. A special exception or variance shall expire within twelve (12) months from the special exception/variance authorization date (as defined herein) unless the applicant:
1. Obtains all permits as may be required for the construction and/or use permitted by the special exception or variance and commences and diligently pursues substantial construction and/or use permitted by and in accordance with the special exception or variance; or
 2. Obtains an extension for the special exception or variance pursuant to subsection B. in the following.
- B. The Zoning Hearing Board, upon application, for good cause shown and after notice and hearing may extend the six (6) month period of time set forth in subsection A., above, for such time as the Zoning Hearing Board may deem appropriate.
1. In no event shall such extension, or the total of such extensions if there are more than one, exceed eighteen (18) months.
 2. The Zoning Hearing Board may grant an extension at any time prior to the expiration of the special exception or variance, as provided in this Section but not thereafter.
 3. An application for an extension may be considered and granted by the Zoning Hearing Board as part of the proceedings a decision in which it considers and grants the special exception or variance, or in subsequent separate proceedings and decision.
- C. Upon the expiration of a special exception or variance, the special exception or variance shall become null and void and of no effect without any action of the Township or the Zoning Hearing Board first being required. In such event, the applicant or other person having standing shall be required to reapply to the Zoning Hearing Board in the same manner as a new applicant for such special exception or variance.
- D. For the purposes of subsection A., above, the “special exception/variance authorization date” shall have the following meanings:
1. Where the special exception or variance is granted by affirmative decision of the Zoning Hearing Board with or without conditions attached, the “special exception/variance authorization date” subject to the provisions contained in this subsection shall be the date on which the written decision of the Zoning Hearing Board is either personally delivered or mailed to the applicant.
 2. Where the special exception or variance is allowed by deemed decision of the Zoning Hearing Board because of its failure to hold a hearing or render a

decisions as provided by the Pennsylvania Municipalities Planning Code and this Ordinance, the “special exception/variance authorization date shall be the date on which the decision of the Zoning Hearing Board is deemed to have been rendered in favor of the applicant.

3. In the cases of the following appeals to court, the “special exception/variance authorization date” shall be the date of the final court order which finally determines and concludes the appeal litigation without remand to the Zoning Hearing Board for further hearings and decision, unless such court order, or prior court order affirmed thereby, provides otherwise.
 - a. An appeal from the decision of the Zoning Hearing Board denying the special exception or variance, in which the court ultimately reverses the decision of the Zoning Hearing Board and grants the special exception or variance with or without conditions attached.
 - b. An appeal from the affirmative or deemed decision of the Board granting or allowing the special exception or variance, including an appeal challenging a condition attached by the Zoning Hearing Board to such grant, which the court ultimately affirms or does not entirely set aside the special exception or variance, regardless of whether or not the court attached conditions to or otherwise modifies the special exception or variance, and/or affirms, sets aside or modifies a condition attached thereto by the Zoning Hearing Board.

SECTION 1708. PARTIES APPELLANT BEFORE THE BOARD.

An appeal to the Board under Section 1706.A. and proceedings to challenge an ordinance under Section 1706.B. may be filed with the Board in writing by the landowner affected, any officer of the Township or any person aggrieved. Requests for a variance under Section 1706.C. and for a special exception under Section 1706.D. may be filed with the Board by any landowner or any tenant with the permission of such landowner.

SECTION 1709. TIME LIMITATIONS.

No aggrieved person shall be allowed to file any proceedings with the Board later than thirty (30) days after (a) any permit has been issued or refused or any other decision made by the Zoning Officer; and (b) any application for development, preliminary or final, has been approved by the Board of Supervisors if such proceeding is designed to secure reversal or to limit approval in any matter.

SECTION 1710. PARTIES TO THE HEARING.

The parties to the hearing shall be the Township, any person affected by the application who has made timely appearance of record before the Board, and any other person, including civic or community organizations, permitted to appear by the Board. The Board shall enter appearances in writing on forms provided by the Board for that purpose. The aforementioned parties shall

have the right to be represented by counsel and shall be afforded the opportunity to respond and present evidence and argument and cross-examine adverse witnesses on all relevant issues.

SECTION 1711. STAY OF PROCEEDINGS.

Upon filing of any proceeding referred to in Section 1708 and during its pendency before the 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 such 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 an 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 bond as a condition to continuing the proceedings before the Board. 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.

SECTION 1712. APPEALS.

The conditions and proceedings set forth in Article X of the Pennsylvania Municipalities Planning Code (Act 247), as amended, shall constitute the exclusive mode for securing review of any ordinance, decision, determination or order of the governing body, its agencies or officers adopted or issued pursuant to Act 247.

**ARTICLE XVIII
AMENDMENTS**

SECTION 1800. POWER OF AMENDMENT.

The Board of Supervisors may from time to time amend, supplement, change, modify or repeal this Ordinance including the Zoning Map. The Board of Supervisors, by resolution adopted at a stated or special meeting, shall fix the time and place of a public hearing on the proposed change, amendment, or repeal and cause notice thereof to be given as follows:

- A. By publishing a notice of the time and place of the hearing not more than thirty (30) days and not less than fourteen (14) days in advance of the date fixed for the hearing in a newspaper of general circulation in the Township. Such notice shall be published once each week for two (2) successive weeks.
- B. The notice shall also set forth the principal provisions of the proposed change, amendment or repeal in reasonable detail and a reference to a place in the Township where copies of the proposed change, amendment or repeal may be examined or purchased at a charge not exceeding the cost thereof. Full opportunity to be heard will be given to any citizen and all interested parties attending such hearing.

SECTION 1801. LANDOWNER PETITION.

A landowner or group of landowners in a district may present to the Board of Supervisors, a petition, duly signed and acknowledged, requesting an amendment, supplement, change, modification or repeal of any of the regulations or restrictions prescribed by this Ordinance for their district, or a change or modification of the Zoning Map with reference to such district. It shall be the duty of the Board of Supervisors to hold a public hearing thereon and cause notice thereof to be given in the manner prescribed in subsection 1800.A., above.

SECTION 1802. PLANNING COMMISSION REFERRAL.

The Board of Supervisors shall refer each petition or proposal for change or amendment whether under this Article or under another article to the Township Planning Commission, and County Planning Commission which shall consider whether or not such proposed change or amendment would be, in the view of the Commission, consistent with and desirable in furtherance of the Comprehensive Plan upon which this Ordinance is based, as the same may be modified from time to time. The Commission shall transmit its conclusion thereon, together with its reasons therefor, to the Board of Supervisors within thirty (30) days. The Board of Supervisors shall take such conclusion and reasons into consideration in reaching its decision, but shall not be bound thereby.

SECTION 1803. CURATIVE AMENDMENT PROCEDURES.

A landowner who desires to challenge, on substantive grounds, the validity of this Ordinance or Zoning Map, or any provision thereof in which he has an interest, may submit a curative amendment to the Board of Supervisors with a written request that his challenge and proposed

amendment be heard and decided as provided in Section 609.1 of the Pennsylvania Municipalities Planning Code, as amended.

SECTION 1804. HEARINGS.

At any public hearing on a proposed change or amendment, opportunity to be heard shall be given to any citizen. The Board of Supervisors shall take the recommendations of the Township and County Planning Commissions into consideration in reaching its decision, but shall not be bound thereby. The Board of Supervisors shall have the power to adopt general or special rules of procedure for the conduct of any such hearing provided under Sections 1800, 1801 and 1803, the hearings shall be conducted in accordance with the following procedures:

- A. The Board of Supervisors shall conduct a hearing thereon within sixty (60) days of the receipt of written request.
- B. The Chairman, or in his absence, the Acting Chairman, shall have the power to administer oaths and issue subpoenas to compel the attendance of witnesses and the production of relevant documents and papers, including witnesses and documents requested by the parties.
- C. The parties shall have the right to be represented by counsel and shall be afforded the opportunity to respond and present evidence and argument and cross-examine adverse witnesses.
- D. Even though formal rules of evidence shall not apply; irrelevant, immaterial or unduly repetitious evidence may be excluded.
- E. The Board of Supervisors shall keep a stenographic record of the proceedings and copies of graphic or written material received in evidence shall be made available at cost to any party.

SECTION 1805. DECISIONS OF THE BOARD OF SUPERVISORS.

All enactments of amendments to the Ordinance or Map shall be read at public meetings of the Board of Supervisors and copies can be examined at the Township Building during regular hours. The Board of Supervisors shall make a decision within a reasonable amount of time after the close of the last hearing on the request unless the time is extended by mutual consent by the landowner and the Board of Supervisors. Should the Board fail to act on the landowner's request within the designated time, the request shall be considered approved. When a decision has been made by the Board of Supervisors, a written copy of the decision shall be delivered to the landowner personally or mailed to him not later than the day following its date. All decisions shall comply with the requirements of the Pennsylvania Municipalities Planning Code, as amended.