

**2015 FAIRVIEW TOWNSHIP ZONING ORDINANCE**

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## ARTICLE I

### AUTHORITY AND GENERAL PROCEDURE

#### **Section 100 GRANT OF POWER**

Pursuant to the authority contained in the Pennsylvania Municipalities Planning Code, Act 247 of 1968, as amended, and for the purpose of promoting health, safety, morals or the general welfare, the Board of Supervisors of Fairview Township is hereby empowered to regulate and restrict height, number of stories, and size of buildings and other structures, their construction, alteration, extension, repair, maintenance and all facilities and services in or about such buildings and structures and percentage of lot that may be occupied, the size of yards, courts and other open spaces, the density of population, and the location and use of buildings, structures, and land for trade, industry, residence or other purposes, and may also establish and maintain building lines and set back building lines upon any or all roads or highways and other land controls permitted by the Municipalities Planning Code and this Ordinance.

#### **Section 101 PROCEDURE FOR ESTABLISHING DISTRICTS**

For any or all lawful purposes, the Board of Supervisors may divide the Township into districts, of such number, shape and area as may be deemed best suited to carry out the purposes of this Article. Within such districts, it may regulate and restrict the erection, construction, reconstruction, alteration, repair or use of buildings, structure or land. All such regulations shall be uniform for each class or kind of building throughout each district, but the regulations in one district may differ from those in another district.

#### **Section 102 EFFECTIVE DATE**

The amendments to this Ordinance shall be effective on **July 16, 2015**, and shall remain in effect until modified or rescinded by the Fairview Township Board of Supervisors. The Board of Supervisors otherwise restates the existing Zoning Ordinance.

#### **Section 103 TOWNSHIP GOVERNANCE**

Since the 1960s, Fairview Township has historically regulated land development through planning, zoning and land use regulations. In 1998, Fairview Township consolidated with Fairview Borough into a new government enterprise. Fairview Township endeavors to continue the orderly process of proper land use controls.

## ARTICLE II

### PURPOSE

#### Section 200 PURPOSE OF THESE ZONING STANDARDS

The Fairview Township Community Development Objectives have been designed to promote, protect and facilitate the public health, safety, morals, and the general welfare; to coordinate practical community development and density of population, community facilities and services, utility services, agricultural, industrial and commercial uses; as well as, preserve the natural, scenic and historic value in the environment; and conserve forest areas, wetlands, floodplains, and coastal and bluff recession hazard areas; through the implementation of the Fairview Area Comprehensive Plan.

Goals and objectives of the Comprehensive Plan are as follows:

To prevent overcrowding of land, blight, danger and congestion in travel and transportation, loss of health, life or property from fire, flood and other dangers.

To preserve prime agricultural and farmland with consideration to topography, soils type and classification and existing use.

To provide for the use of land within Fairview Township for residential housing of fair and affordable types, including single-family and multi-family dwellings of all types.

To accommodate reasonable overall community growth, including population and employment growth, and to create opportunities in the development of a variety of residential and non-residential uses.

#### A. Land Use Goal

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

1. Prevent undesirable land use relationships by avoiding the mixing of incompatible uses, yet still maintain neighborhood conveniences.

2. Encourage the concentration of compatible land use in discernible clusters and limit both “strip” development and irregularly dispersed development patterns.

3. Discourage the indiscriminate spread of commercial and industrial uses, particularly the encroachment of these uses upon existing or future residential areas.

4. Discourage the adverse scattering of high-density residential development and encourage such development in areas with infrastructure support.

5. Develop appropriate land use controls to guide future uses and densities of development in accordance with the Township’s land use plans.

6. Allow for a mix of dwelling types, densities, single and multi-family mixes and appropriate supporting facilities and uses such as recreation, open space, roads, parking areas, utilities, and employ safety and aesthetic measures.

7. To provide for industrial development activities to include both traditional industrial development and industrial park development.

8. Prohibit the use of temporary structures for permanent use activities.

#### B. Environmental Goal

To preserve and enhance the area’s natural and cultural environments.

1. Protect unique geologic, vegetative and other ecological areas to ensure variety in the environment, to serve as outdoor educational resources, to guard against damage to life and property, and to preserve the natural amenities upon which the community ultimately depends.

2. Protect the groundwater resources in those areas that are dependent upon on-lot wells for potable water by such methods as restricting the type and density of development in recharge areas.

3. Discourage encroachment upon streams and their flood plains, ponds, and high water table areas that threatens to degrade the natural condition of their waters and/or banks.

4. Eliminate or carefully control all causes of water pollution including but not limited to sedimentation, thermal interference, septic tank outfall, chemicals and hard metals contamination, soil erosion and siltation, and dumping.

5. Provide for the protection of the coastal zone area in an effort to protect the bluffs and adjacent areas from further degradation and minimize development encroachment which might have an adverse effect.

6. Protect significant wetland areas from the encroachment of development.

### C. Aesthetic Goal

To enrich the lives of all residents by seeking to improve the esthetic quality and visual impact of the man-made environment and by preserving and enhancing the natural environment.

1. Prevent the desecration of the area's scenic elements such as dense woodlands, water bodies, steep slopes and hilltops by relating all development to natural features.

2. Encourage the elimination, isolation or screening of all visual distractions created by man.

3. Encourage the use of landscaping and conservation practices to enhance the visual quality of the man-made environment.

4. Encourage placing utilities underground when practical and encourage attractive design or blending with the natural environment when underground placement is not practical.

5. Encourage the protection of attractive views in the country-side and their creation in neighborhoods.

6. Control the use of signs in terms of number, type, size and location and encourage aesthetics and attractiveness in their design. Prohibit the use of inappropriate sign designs and configurations.

7. Promote innovative development concepts such as planned residential developments which encourage variety in neighborhood and appropriate architectural design.

8. Protect and plan for the protection of air and solar access to all forms of development, particularly in areas occupied by fauna and flora.

D. Transportation, Traffic and Circulation Goals

To provide the safe and convenient circulation and movement of goods and people within the community.

1. Provide for the separation of through and local traffic in order to facilitate movement both within the Fairview area and between neighboring municipalities and regions.

2. Coordinate and integrate the transportation systems of Fairview Township with that of the county, state and nation.

3. Provide for separate pedestrian walkways wherever warranted by vehicular traffic and other activities.

4. Provide for adequate off-street parking in all future developments.

5. Support public mass transit services for those without cars and as a viable option to the private automobile.

6. Provide adequate and safe streets and street systems in all future residential, commercial and industrial subdivisions, while guarding against over-design.

E. Economy Goal

To establish a diversified and enduring economic structure which provides residents with a variety of employment opportunities while at the same time preserving a healthful, secure, and pleasant residential environment.

1. Provide for future commercial and industrial development by reserving adequate land areas through various methods such as zoning, land-banking, industrial park development, LERTA districts, etc.

2. Provide for the concentration of commercial and industrial developments within selected areas by designating these areas in the land use plan as supported by land use regulations.

3. Provide the necessary infrastructure that encourages business and industrial development; e.g., utilities, streets, police and fire protection, etc.

4. Provide for the economic development potential of the PA 98/I-90 interchange area by encouraging the use of this area for businesses and industries and allowing for industrial park development.

5. Discourage non-conforming uses throughout Fairview Township.

6. Establish and perpetuate a local government and business community relationship conducive to economic development.

#### F. Housing Goal

Provide adequate housing for the present and future residents of the Fairview Township area.

1. Increase the supply of decent, safe and sanitary housing in price ranges affordable to the residents of the area.

2. Provide for diversity in housing types and residential areas so that every family has a fair choice with respect to residential environment and life-style.

3. Preserve the existing housing stock through public and private actions and incentives that encourage housing upkeep.

4. Eliminate all substandard housing units by removing those units beyond salvage and by rehabilitating those units that can be feasibly salvaged.

5. Preserve the residential character and quality of viable residential areas.

6. Allow for planned residential development in areas compatible with the surrounding land use and adjacent land uses while allowing for a mix of dwelling types, densities, single and multi-family mixes and appropriate supporting facilities and uses such as recreation, open space, roads, parking areas, utilities, while taking into account safety and aesthetic measures.

#### G. Community Facilities and Services Goal

Provide for facilities, services and utilities of the quantity and quality necessary to meet the physical, social, cultural, recreational and aesthetic needs of the community and to do so in a timely and fiscally responsible manner.

1. Provide adequate police, fire and safety protection throughout the community.
2. Provide adequate water, sewerage and solid waste management services in all areas of the community where existing or planned development or population densities warrant such services, either through public facilities or properly installed and maintained private facilities.
3. Promote adequate public school facilities, including buildings and grounds that can serve as multi-use facilities.
4. Promote a community recreation program and facilities based on the needs and desires of the local residents, within available resources.
5. Provide community facilities in an orderly and timely manner by annually updating the Capital Improvements Program and Capital Budget to reflect the public facility needs of the community.

#### H. Energy Conservation Goal

To promote energy conservation as a matter of serious public concern.

1. Exercise public responsibility in providing direction to energy conservation efforts in the community.
2. Propagate efficient land use patterns that lead to efficient energy utilization.
3. Adopt land use and development controls, building codes and similar regulations that promote energy efficiencies and revise or eliminate those that cause or encourage wasteful energy consumption.
4. Utilize alternate energy sources in all new governmental buildings when feasible.
5. Encourage the use of alternate energy sources in all other public, residential, commercial and industrial structures in the community.
6. Encourage all residents to adopt an energy conservation attitude.
7. Protect solar access to existing future developments.

I. Citizen Participation Goal

Encourage continual discussion among residents concerning the development of Fairview Township and encourage their participation in public affairs.

1. Have all business meetings of the public bodies in the Township open to the public.
2. Stimulate the interest of the Township residents in local public affairs and encourage their attendance and participation at meetings of the local public bodies.

**Section 201 ZONING STANDARDS**

A. This Ordinance is inclusive zoning in that no use may be operated in a district unless it is specifically included as a use by right for that district, and each parcel shall be limited to one principal or permitted use per lot.

B. The Downtown Village Overlay area where a residence may be placed in a B-1 or B-2 commercial structure shall also be determined as one principal or permitted use.

C. Uses not specifically regulated must be presented before the Zoning Hearing Board. If a use clearly is not permitted by right, conditional use or as a special exception use by this Ordinance within any zoning district, the use is prohibited, except that the Zoning Hearing Board may permit such use as a special exception use if the applicant specifically proves to the clear satisfaction of the Zoning Hearing Board that all of the following conditions would be met:

1. Proposed use would be less intensive in external impacts and nuisances than uses that are permitted in the zoning district.
2. Proposed use would be closely similar in impact and character to uses permitted in that zoning district.
3. Use would meet the standards that would apply for a special exception use.
4. Use is not specifically prohibited in that zoning district.

**Section 202**

**TITLE**

This Ordinance shall be known and may be cited as the "Fairview Township Zoning Ordinance." The map herein referred to, which is identified as the "Fairview Township Zoning Map", and all the explanatory matter thereon are hereby adopted and made part of this Ordinance.

## **ARTICLE III**

### **PLANNING COMMISSION**

#### **Section 300 PLANNING COMMISSION**

In order to avail themselves of the powers conferred by the Pennsylvania Municipalities Planning Code, the Board of Supervisors shall, by ordinance, create a planning commission in accordance with the provisions of the aforesaid planning code.

## ARTICLE IV

### DEFINITIONS

#### Section 400 GENERAL INTERPRETATION

A. For the purpose of this Ordinance, those words not specifically defined shall have a common meaning as expressed in Webster's New World Dictionary and The Latest Illustrated Book of Development Definitions (New Expanded Edition 2007) on file in the office of the zoning officer. Certain terms and words used herein shall be interpreted or defined as follows:

1. Words used in the present tense shall include the future.
2. Words used in the singular include the plural.
3. The word "person" includes an individual, partnership, public or private association or corporation, firm, trust estate, municipality, governmental unit, public utility or other legal entity which is recognized by law as the subject of rights and duties.
4. The word "lot" includes the words "plot" or "parcel."
5. The term "shall" is always mandatory.
6. The term "may" is always permissive.
7. The words "used" or "occupied" as applied to any land or building shall be construed to include the words "intended, arranged or designed to be used or occupied."
8. The word "building" includes the word "structure."
9. The words "he" or "his" include the words "she" or "her."
10. Unless otherwise specified, all distances shall be measured horizontally.

## Section 401                      DEFINITIONS

Unless otherwise expressly stated, the following words shall, for the purpose of this Ordinance, have the meaning herein indicated. See also definitions in the Fairview Township Subdivision and Land Development Ordinance.

**ACCESSORY BUILDING:** A building subordinate to the main building and used for purposes customarily incidental to those of the main building.

**AGRICULTURAL OPERATION:** An enterprise that is actively engaged in the commercial production and preparation for market of crops, livestock and livestock products and in the production, harvesting and preparation for market or use of agricultural, agronomic, horticultural, silvicultural and aquacultural crops and commodities. The term includes an enterprise that implements changes in production practices and procedures or types of crops, livestock, livestock products or commodities produced consistent with practices and procedures that are normally engaged by farmers or are consistent with technological development within the agricultural industry.

**AGRITOURISM:** Agricultural uses such as farms, ranches, and vineyards that, through promotion and advertising, facilities, and activities, seek to attract visitors, guests, and vacationers.

**AIRPORT:** An area of land or water which is used, or intended to be used for the landing and takeoff of aircraft and appurtenant areas which are used, or intended to be used, for airport buildings or air navigation facilities or rights-of-way, together with airport buildings and facilities thereon. The term includes heliports and public airports.

**AIRSTRIP, PRIVATE:** An airport which is privately owned and which is not open or intended to be open to the public.

**ALLEY:** A minor right-of-way providing secondary vehicular access to the side or rear of two or more properties.

**ALTERATION:** As applied to a building or structure, means a change or rearrangement in the structural part or in the exit facilities, or in the enlargement, whether by extending, as a side, or by increasing in height, or the moving from one location to another.

**ANIMAL HOSPITAL OR CLINIC:** Animal hospital or clinic shall mean a facility for the medical or similar examination and treatment and boarding of animals as inpatients or outpatients. These facilities include all facilities operated by a doctor of

veterinary medicine for medical treatment of animals and for private individuals who own or operate a boarding kennel.

**APPLICANT:** A landowner or developer or one possessing the authorization to act on behalf of the landowner, who has filed an application for development.

**AREA, FLOOR:** The sum of the gross horizontal areas of all enclosed floors of a building, including cellars, basements, mezzanines, penthouses, corridors, and lobbies from the exterior walls, or from the centerline of a common wall separating two (2) buildings, but excluding any space with a floor-to-ceiling height of less than six (6) feet six (6) inches.

**ASSISTED LIVING RESIDENCE:** A multiple-family dwelling providing residence and specialized services. This category of living includes seniors who through some indication of failing health prefer to live in an environment where service and choice are the key components. The person wishes to eliminate the worrisome issues of home maintenance, lawn care, meal service, housekeeping, laundry, periodic wellness checks and reminders to take prescribed medications. This category is tailored to the specific needs of each resident as determined by their frailty and health assessment.

**BED AND BREAKFAST INN:** An owner-occupied single-family dwelling that contains not more than five guest bedrooms in which short-term lodging not exceeding seven consecutive days or nights is provided. A breakfast meal for Inn guests and residents may be provided. Bed and Breakfast Inns shall be considered an accessory use to a single family dwelling in the R-2 Suburban Single and A-1 Rural districts. Bed and breakfast inns shall be considered an accessory use to a single family dwelling and an agricultural operation in an A-2 Agrarian district. Bed and breakfast inns shall be considered a principle/permitted use in the B-1 Neighborhood Business and the B-2 Highway Commercial districts. This use shall not include group residence facilities.

**BILLBOARD:** Advertising structure not directly relating to a use conducted on the premises. See "Sign, Billboard or Pennant."

**BLUFF:** The edge or crest of the elevated segment of the shoreline above the beach or beach terrace, subject to erosion.

**BLUFF RECESSION:** The loss of material along the bluff caused by the direct or indirect action by one or a combination of groundwater seepage, wind and/or water currents or high water levels.

**BLUFF RECESSION HAZARD AREA:** An area or zone where the rate of progressive bluff recession creates a substantial threat to the safety or stability of nearby

existing or future structures or utility facilities. Measured horizontally from the edge or crest of the bluff to a point, but in no case less than 100 feet.

**BUILDING LINE:** An imaginary line located a fixed distance from any lot line and interpreted as being the nearest point that a building may be constructed to the lot line. The building line shall limit the location of structures such as decks, porches, patios and all similar construction, steps excepted, to the face of this line as specified in this ordinance. The building line for cul-de-sac lots shall be determined as a minimum where the lot meets the minimum lot width, but in no case, less than 35 feet.

**BUILDING OR STRUCTURE:** Any manmade object having an ascertainable stationary location on or in land or water, whether or not affixed to the land.

A. Residential: A place providing habitation for an individual or group of individuals and any accessory structures associated with the residential structure.

B. Commercial: A place where commodities are exchanged, bought or sold on a retail basis and any accessory structures associated with the commercial structure. This category also includes business and professional offices, retail, and personal services.

C. Industrial: A place where materials are refined, produced, or fabricated and stored prior to shipment to commercial establishments on a wholesale basis and any accessory structures associated with the industrial structure.

**CARTWAY (ROADWAY):** That portion of the street right-of-way surfaced for vehicular use. Width is determined from face of curb to face of curb or from one edge of driving surface to the other edge of driving surface.

**CHICKEN TRACTOR:** A portable enclosure for poultry, intended to be frequently moved as a means to build soil or control garden weeds, which may or may not be attached to a henhouse or coop.

**COMMERCIAL:** Engaging in a business, enterprise, activity or other undertaking ordinarily or actually for profit.

**COMMISSION, PLANNING:** The legally appointed Planning Commission of the Township of Fairview.

**COMPREHENSIVE PLAN:** The comprehensive, long-range plan document for the desirable use of land in Fairview Township, the purpose of such plan being, among other things, to serve as a guide for the zoning and progressive rezoning of land to meet changing community needs in the subdividing and use of undeveloped land and in the

acquisition of land for such public purposes as streets, parks, schools and other public buildings. This document is known as the "2012 Fairview Township Comprehensive Plan" and shall include any amendments or revisions from time to time.

**CONDITIONAL USE:** A use permitted in a particular zoning district pursuant to the provisions in Article VI of the Pennsylvania Municipalities Planning Code and the provisions of this Ordinance.

**CONSTRUCTION OR ERECTION:** Includes the building, construction, reconstruction, renovation, repair, extension, expansion, alteration, or relocation of a building or structure including the placement of a mobile home. Excavation, fill and the like shall be considered part of the erection.

**CONSTRUCTION PERMIT:** A permit issued by the building code official under the Pennsylvania Construction Code or Ordinance indicating that proposed construction, alteration or reconstruction of a structure or other work regulated by the Pennsylvania Construction Code is in accordance with the Pennsylvania Construction Code as adopted by the township and authorizing the applicant to proceed with such work or activity. This term shall be deemed to include "building permit" or "construction permit." Construction permit is distinct from "zoning permit" and is not issued, administered or reviewed under this Ordinance.

**COOP OR HENHOUSE:** A building constructed of permanent materials with four opaque walls and a roof, with ventilation through windows or other protected openings, intended for the shelter and protection of poultry.

**CUL-DE-SAC:** A minor street with one end open to traffic and pedestrian access and permanently terminated by a vehicular turnaround.

**DAY CARE CENTER:** An establishment licensed by the Commonwealth of Pennsylvania which provides supervised care for less than twenty-four (24) hours for four (4) to twelve (12) children, who are not residents of the premises.

**DENTAL OR MEDICAL CLINIC:** A facility for the medical or similar examination and treatment of persons as outpatients by physicians or licensed medical specialists practicing medicine as a group during normal office hours. Clinics providing 24 hour emergency service within the clinic shall be considered a hospital.

**DEVELOPER:** Any landowner, agent of such landowner or tenant with permission of such landowner, 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 building or structures, the placement of streets and other paving, utilities, mining, dredging, filling, grading, clearing, logging, excavation, or drilling operations and the subdivision of land.

**DWELLING:** A house, apartment building or other structure (including mobile homes and manufactured homes) used primarily for human habitation that is a minimum of 1,000 square feet of living space and located on a permanent foundation. The word “dwelling” shall not include hotels, motels or other structures used for transient residence nor shall it include house trailers unless they are specifically included.

**DWELLING, MULTIPLE-FAMILY:** A dwelling designed for or occupied exclusively as a residence for two or more families with separate housekeeping and cooking facilities for each family.

**DWELLING, SINGLE-FAMILY:** A detached building designed for or occupied exclusively as a residence for only one family. Two portable units designed and built to be towed on their own separate chassis and permanently combined on site with a foundation to form a single immobile dwelling unit shall be regarded as a single-family detached dwelling.

**EFFECTIVE DATE:** The date on which this Ordinance is duly adopted by the Township.

**ESSENTIAL SERVICE:** The erection, construction, alteration or maintenance by public utilities, municipal departments or commissions of facilities, including buildings necessary for the furnishing of adequate services for the public health, safety or general welfare.

**EXOTIC ANIMALS:** Animals, not household pets, including but not limited to the following:

A. All bears, coyotes, lions, tigers, leopards, jaguars, cheetahs, cougars, wolves and any crossbreed of these animals which have similar characteristics in appearance or features.

B. Any ungulate species not regulated as domestic livestock by the Pennsylvania Department of Agriculture.

C. Any species of animal that requires a permit for possession issued by the Pennsylvania Game Commission, the Pennsylvania Department of Agriculture or the U.S. Fish and Wildlife Service.

**EXTENSION:** An increase in the area of a building, other structure and/or land.

**FACILITY OWNER:** The entity or entities having an equity interest in the Wind Energy Facility, including their respective successors and assigns.

**FAMILY:** Any number of individuals living together, related by blood, marriage or adoption, or not more than eight unrelated individuals who cook together as a single housekeeping unit, as distinguished from a group occupying a boarding house. Also considered are not more than eight unrelated individuals.

**FAMILY DAY CARE HOME:** Any family residence other than the child's own home, operated for profit, or not for profit, in which child day care is provided at any time to four, five or six children who are not relatives of the care giver as defined and regulated by the Commonwealth of Pennsylvania.

**FARM:** An area of land and its buildings used for growing crops and rearing animals, typically under the control of one owner or manager.

**FLEA MARKET:** A market area primarily for the display, sale, or exchange of second-hand articles located in the Commercial Zoning District.

**FLOOR AREA, MINIMUM:** The sum of the gross horizontal areas of the several floors of a building, excluding cellar and basement floor areas not devoted to residential use, porches, patios, breezeways, carports, sun porches or other similar structural additions.

**FRONT YARD:** The open space extending across the entire width of the lot between the front building line and the street right-of-way line.

**GARAGE, PRIVATE:** A structure or any portion thereof accessory to a dwelling used for the housing of not more than four private passenger motor vehicles, trucks or boats. This shall not include a garage offering commercial automotive services to the public or a garage where any provision is made for repairing or servicing vehicles for profit.

**GARAGE, PUBLIC:** A garage other than a private garage where motor vehicles are stored, equipped for operation, repaired or kept for remuneration, hire or sale.

**GROUP DAY CARE HOME:** A child day care facility in which care is provided for more than six (6) but less than twelve (12) children, at any one time, where the child care areas are used as a family residence.

**GROUP HOME:** A single-family detached dwelling providing residence and specialized services for not more than eight developmentally disabled, mentally handicapped, physically handicapped or dependent children or adults referred by the appropriate Erie county or state agency responsible for placement and qualified staff who provide professional care, supervision and service for such residents and not more than two such personnel shall be residents of the dwelling.

**GROUP RESIDENCE FACILITY.** An establishment that provides in a family setting or environment room, board and care to persons who are intellectually disabled and/or physically handicapped, dependent children under the age of 18 years or individuals over 62 years of age who are in need of supervision and specialized services limited to health, social and/or rehabilitative services provided by a governmental agency, its licensed or certified agents or a responsible and licensed nonprofit social service corporation. Supervision shall be provided by responsible adults whose number shall be determined and certified by the sponsoring agency, at least one responsible adult to be available for the residents on a 24-hour per day basis while residents are on the premises. Such establishment must inherently function as a single housekeeping unit and not as an institution and shall not bear exterior signage and shall not allow or engage in activity, including extent of parking not customary for other uses in the particular zoning district. This category shall not include facilities for delinquent children, persons 18 or more years of age released from or under the jurisdiction of a criminal court, government bureau of corrections or similar institution or agency, persons suffering from communicable or publicly transmittable diseases or otherwise not within the specific definition set forth above. Under this definition, the number of "residents" shall be deemed to include resident clients, staff residing in the premises or assigned per shift and family of staff who reside in the premises, either temporarily or permanently. Persons receiving treatment under Article IV (determinations affecting those charged with a crime or under sentence) shall not be eligible for residence in a group residence facility. Intellectually disabled individuals shall be certified by Erie County intellectual disability authorities as being capable of residing in such a facility. This definition shall be strictly interpreted.

**HEIGHT, BUILDING:** The vertical distance from the average grade plane to the height of the highest roof surface.

**HELIPORT:** An area, either at ground level or elevated on a structure, licensed by the federal government or an appropriate state agency and approved for the loading, landing, and takeoff of helicopters and including auxiliary facilities such as parking, waiting room, fueling and maintenance equipment.

**HELISTOP:** A heliport without auxiliary facilities.

**HOME OCCUPATION:** Any uses customarily conducted entirely within a dwelling and carried on by the occupants thereof, which uses are clearly incidental and subordinate to the use of the dwelling purposes and which do not change the residential character thereof, including personal services, barber shops, beauty shops, day care centers, professional offices, etc.

**HORTICULTURE:** Any form of growing, cultivation of or raising any fruits, vegetables, flowers and ornamental plants including nurseries, hay and grain crops.

**HOSPITAL:** A private or public institution, licensed by the State of Pennsylvania, used primarily for inpatient medical, surgical and psychiatric treatment of the ill and disabled.

**HOUSEHOLD PET:** A domesticated animal that is normally kept or can generally be kept within the immediate living quarters of a residential structure. Any member of the swine, sheep, poultry, bovine or equidae family of quadrupeds, elephants, rhinoceros, hippopotamus, moose, deer, or reptiles having a venomous or constrictor nature or other animals considered dangerous such as exotic animals defined by this ordinance does not constitute a household pet under any provision of this Ordinance.

**HUB HEIGHT:** The distance measured from the surface of the tower foundation to the height of the wind turbine hub, to which the blades are attached.

**INFORMATIONAL SIGNS:** A sign adjacent to or within an industrial park that identifies the industrial parks occupant and/or location only.

**INTEGRATED CENTER:** A combination of commercial uses designed, structured and located so as to result in a shopping plaza, mall or other acceptable configuration in one continuous building or architectural modification thereof, under one roof and including associated common walls.

**JUNK:** Any worn, castoff, or discarded article or material that is ready for destruction or that has been collected or stored for sale, resale, salvage or conversion to some other use. Any such article or material stored on a farm for exclusive use of the owner or occupant of the farm or any article or material which, unaltered, need not be disassembled or unfastened from, not in need of inspection and/or licensing, or unchanged and without further reconditioning can be used for its original purpose as readily as when new shall not be considered junk.

**JUNKYARD:** The use of more than 200 square feet of an area on any lot for storage. This may include not more than one unlicensed or unregistered vehicle for the storage, keeping or abandonment of junk, including scrap material for the dismantling,

demolition or abandonment of automobiles or other vehicles or machinery or parts thereof.

KENNEL: Any establishment wherein dogs are kept for the purpose of breeding, hunting, training, renting, research or vivisection, buying, boarding, sale, show or any other similar purpose and is so constructed that dogs cannot stray therefrom.

LAND DEVELOPMENT:

A. The improvement of one lot or two or more contiguous lots, tracts or parcels of land for any purpose involving the following:

1. A group of two or more residential or non-residential buildings, whether proposed initially or cumulatively, or a single non-residential building on a lot or lots regardless of the number of occupants or tenure.

2. The division or allocation of land or space, whether initially or cumulatively, between two or among three or more existing or prospective occupants by means of, or for the purpose of streets, common areas, leaseholds, condominiums, building groups or other features.

3. A subdivision of land.

B. "Land development" does not include development that involves the following:

1. The conversion of an existing single-family detached dwelling or single-family semi-detached dwelling into not more than three residential units, unless such units are intended to be a condominium.

2. The addition of an accessory building, including farm buildings, on a lot or lots subordinate to an existing principal building.

3. The addition or conversion of buildings or rides within the confines of an enterprise which would be considered an amusement park. For the purposes of this subsection, an amusement park is defined as a tract or area used principally as a location for permanent amusement structures or rides. This exclusion shall not apply to newly acquired acreage by an amusement park until initial plans for the expanded area have been approved by the proper authorities.

**LANDFILL:** A disposal site in which refuse and earth, or other suitable cover material, are deposited and compacted in alternating layers of specified depth in accordance with an approved plan.

**LEGISLATIVE BODY:** The governing body of Fairview Township.

**LOADING UNIT:** The area required to accommodate one truck in a space 12 feet wide, 15 feet high and 45 feet long, exclusive of access and turning area.

**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:** The area contained within the property lines of the individual parcels of land shown on a subdivision plan.

**LOT, CORNER:** A lot abutting two or more streets at their intersection and on which the building line for both streets must be observed.

**LOT DEPTH:** The horizontal distance between the front and rear lot lines.

**LOT OF RECORD:** A piece of ground that existed as an independent lot on the records of Erie County prior to its inclusion by Fairview Township ordinances.

**LOT WIDTH:** The horizontal distance measured along the street right-of-way or between the two intersections of the street right-of-way of the cul-de-sac and the property line.

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

**MANUFACTURED HOME PARK:** A parcel or contiguous parcels of land that have been planned and improved for placement of two or more manufactured homes.

**MARGINAL ACCESS:** A street parallel and adjacent to an arterial or expressway providing access to abutting properties and control of intersections with the arterial or expressway.

**MINIATURE PONY:** An equine animal with an adult weight of less than three hundred fifty (350) pounds or having a heart girth of fifty two (52) inches or less.

**MOBILE HOME OR MODULAR HOME:** A transportable, single-family dwelling of not less than 750 square feet of living space intended for permanent occupancy, contained in one unit or in two or more units designed to be joined into one integral unit capable of again being separated for repeated towing, which arrives at a site complete and ready for occupancy except for minor incidental unpacking and assembly operations and construction so that it may be used without a permanent foundation.

**MOBILE HOME LOT:** A parcel of land in a mobile home park improved with all utility connections and other necessary appurtenances for the erection thereon of a single mobile home.

**MOBILE HOME PARK:** A parcel or contiguous parcels of land which have been so designated and improved so that it contains two or more mobile home lots for the placement thereon of mobile homes.

**MOTEL:** A building made of two or more living or sleeping quarters used independently of each other and used principally and commercially for overnight accommodations, which includes all transient lodging establishments.

**NO-IMPACT HOME-BASED BUSINESS:** A business or commercial activity administered or conducted as an accessory use which is clearly secondary to the use as a residential dwelling and which involves no customer, client or patient traffic, whether vehicular or pedestrian, pickup, delivery or removal functions to or from the premises in excess of those normally associated with residential use. The business or commercial activity must satisfy the following requirements:

A. The business activity shall be compatible with the residential use of the property and surrounding residential uses.

B. The business shall employ no employees other than family members residing in the dwelling.

C. There shall be no display or sale of retail goods and no stockpiling or inventory of a substantial nature.

D. There shall be no outside appearance of a business use, including, but not limited to, parking, signs or lights.

E. The business activity may not use any equipment or process which creates noise, vibration, glare, fumes, odors or electrical or electronic interference, including interference with radio or television reception, which is detectable in the neighborhood.

F. The business activity may not generate any solid waste or sewage discharge, in volume or type, which is not normally associated with residential use in the neighborhood.

G. The business activity shall be conducted only within the dwelling and may not occupy more than 25% of the habitable floor area.

H. The business may not involve any illegal activity.

**NONCONFORMING:** There are three (3) separate types of nonconformity recognized by the Pennsylvania Municipalities Planning Code, and these are listed below. The nonconforming status is granted only to the use, lot, or structure legally existing at the date of the adoption of any valid Fairview Township zoning ordinance or any amendment thereto that created the nonconformity. Nonconformity shall not be extended to additional property subsequently acquired or used.

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

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

C. **Nonconforming Use:** A use, whether of land or structure, that does not comply with the applicable use provisions in any Fairview Township zoning ordinance or amendment heretofore or hereafter enacted, where such use was lawfully in existence prior to the enactment of such ordinance or amendment, or prior to the application of such ordinance or amendment to its location by reason of annexation.

**NORMAL AGRICULTURAL OPERATION:** The activities, practices, equipment and procedures that farmers adopt, use or engage in the production and preparation for market of poultry, livestock and their products and in the production, harvesting and preparation for market or use of agricultural, agronomic, horticultural, silvicultural and aquacultural crops and commodities and is:

A. Not less than ten (10) contiguous acres in area; or

B. Less than ten (10) contiguous acres in area but has an anticipated yearly gross income of at least \$10,000.

This term includes new activities, practices, equipment and procedures consistent with technological development within the agricultural industry. Use of equipment shall include machinery designed and used for agricultural operations, including, but not limited to, crop dryers, feed grinders, saw mills, hammer mills, refrigeration equipment, bins and related equipment used to store or prepare crops for marketing and those items of agricultural equipment and machinery defined by the act of December 12, 1994 (P.L. 944, No. 134), known as the Farm Safety and Occupational Health Act. Custom work shall be considered a normal farming practice.

**NURSING HOME:** Nursing home shall mean a long-term care facility for the elderly, infirm and those who are no longer able to care for themselves. A nursing home shall be licensed as required by the Pennsylvania Department of Health and/or the Erie County Health Department. A nursing home shall at all times meet or exceed the requirements of the Pennsylvania Department of Health and/or the Erie County Health Department for the day to day operations of such a facility.

**OCCUPIED BUILDING:** A residence, school, hospital, church, public library or other building used for public gathering that is occupied or in use when the permit application is submitted.

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

**OPERATOR:** The entity responsible for the day-to-day operation and maintenance of the wind energy facility.

**PARKING SPACE:** The area required for parking one automobile, measuring no less than 9 feet by 18 feet, excluding access or turning area, except as otherwise regulated by the Fairview Township Subdivision and Land Development Ordinance.

**PERMANENT FOUNDATION:** A full perimeter masonry or poured concrete foundation wall resting upon a continuous concrete footing or footer, a concrete pedestal resting upon an independent concrete spread footing, or an equivalent structural system, each capable of supporting its intended load and transferring that load to the soil below the frost line (minimum depth of 48 inches required).

**PERSON:** An individual, firm, partnership, corporation, company, association, joint stock association or government entity, including a trustee, a receiver, an assignee or similar representative of any of the above.

**PLAZA:** A combination of commercial uses designed, structured and located so as to result in a shopping plaza, mall or other acceptable configuration in one continuous building or architectural modification thereof, under one roof and including associated common walls.

**POULTRY:** Domestic fowl such as chickens, turkeys, ducks, pheasants, and quail.

**PRIVATE COUNTRY CLUB:** An organization catering exclusively to members and their guests on premises and buildings for recreational or athletic purposes which are not conducted for gain, providing that any vending stands or commercial activities are conducted only as required generally for the membership of such club.

**PROFESSIONAL OFFICE:** Any office or business conducted by an individual who or an association that must be licensed under the laws of the Commonwealth of Pennsylvania.

**PUBLIC:** Includes any government owned and/or operated use and/or Public Utility Commission licensed use.

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

**RIGHT-OF-WAY, STREET:** Any public highway, street or road accepted by different levels of government for public use as designated by designated by the Board of Supervisors. All right-of-ways must be recorded in the Recorder of Deeds Office, Erie County, Erie, Pennsylvania.

**ROADSIDE STAND:** A permanent or temporary structure used for the display, support, protection and sale of products such as vegetables, fruits, poultry and dairy products, etc.

**RUMMAGE SALE:** A temporary sale conducted by a non-profit organization such as a church or club where the members of the group bring articles or items to a central structure to be sold to raise money for use by the organization.

**SANITARIUM:** A facility for the medical or similar examination and treatment of patients as outpatients or residential patients by physicians or licensed psychiatric specialists for mental illness.

**SECURITY FENCING:** Any electric fencing, spike-topped, barbed-wire topped, etc. that is potentially dangerous with the exception of agriculture/livestock fencing. It shall be located within the yard requirements for the district in which it is located.

**SERVICE BUSINESS:** Establishments primarily engaged in providing assistance, as opposed to products, to individuals, business, industry, government, and other enterprises.

**SERVICE STATIONS:** An area of land, including structures, used for the sale of gasoline or other motor vehicle fuel and oil and other lubricating substances and/or the sale of motor vehicle accessories which may include associated facilities for automobile servicing, excluding painting.

**SIGN, BILLBOARD OR PENNANT:** Any writing (including letter, word or numeral); pictorial representation (including illustration or decoration); emblem (including device, symbol or trademark); flag (including banner or pennant); or any other figure of similar character, which is a separate structure or where in any part is attached to, painted on, or in any other manner represented on a building or other structure. An illuminated sign located in a window is a sign. The area of the sign shall include the support material from the bottom of the sign to and beyond the top of the sign. High rise signs shall be considered any sign within 1,000 feet of the intersection of Interstate 90 and Route 98 in a B, I-1, and I-3 zoning district.

**SPECIAL EXCEPTION:** A use permitted in a particular zoning district pursuant to the provisions of Articles VI and IX of the Pennsylvania Municipalities Planning Code.

**STREET LINE:** The line defining the edge of the legal width of a dedicated or established street right-of-way.

**STREETS OR ROADS:**

A. Principal Arterial: This class of highway facility is devoted entirely to the task of moving large volumes of traffic and performs little or no land service function. It is generally characterized by some degree of access control. Normally, this classification should be reserved for multi-lane, divided roads with few, if any, grade intersections.

B. Arterial: Arterials bring traffic to and from the expressway and serve major movements of traffic within or through the areas not served by expressways. They serve primarily to move traffic, but also perform a secondary function of land service.

C. Marginal Access: A street or road parallel and adjacent to an arterial or expressway providing access to abutting properties and control of intersections with the arterial or expressway.

D. Collector: This class of road serves as the internal traffic movement within the Township and connects developed areas with the arterial system. The collector system is intended to simultaneously supply abutting property with the same degree of land service as a minor street and accommodate local internal traffic movements.

E. Minor: (Local Street) The minor street's sole function is to provide access to immediately adjacent land. This type represents a fairly large percentage of the total street mileage in most municipalities.

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

TRAILER, CAMPING AND RECREATIONAL EQUIPMENT: This class shall include travel trailers, enclosed box trailers, pickup coaches, motorized homes and recreational equipment as follows:

A. Travel trailer is a vehicular, portable structure built on a chassis, designed to be used as a temporary dwelling for travel, recreational and vacation purposes and is identified as a travel trailer by the manufacturer of the trailer.

B. Enclosed box trailer is a trailer that may be used for the storage and transportation of recreational vehicles and equipment.

C. Pickup coach is a structure designed primarily to be mounted on a pickup or truck chassis with sufficient equipment to render it suitable for use as a temporary dwelling for travel, recreational and vacation purposes.

D. Motorized home is a portable dwelling designed and constructed as an integral part of a self-propelled vehicle.

E. Boat is a vessel designed to travel on water.

F. Boat trailer is a trailer, as defined above, designed to haul a boat.

**TURBINE HEIGHT:** The distance measured from the surface of the tower foundation to the highest point of the turbine rotor plane.

**USE, ACCESSORY** A use of land or of a building or portion thereof customarily incidental and subordinate to the principal use of the land or building and located on the same lot with or without a principal use.

**USE, PRINCIPAL/PERMITTED:** The major or dominant use for which land or a building is designed, arranged, intended or for which it is or may be occupied or maintained. The term “permitted use” or “principal use” shall not be construed to include any non-conforming use.

**USE CERTIFICATE:** A certificate issued upon a change in use of a structure or a parcel of land, or upon request, which certifies that the premises complies with the provisions of this Ordinance and which may be used for the purposes set forth in such permit.

**UTILITY:** Within the framework of this Ordinance, utilities shall include public water or public sanitary sewer facilities only.

**VARIANCE:** Relief granted pursuant to the provisions of Articles VI and IX of the Pennsylvania Municipalities Planning Code.

**VILLAGE AREA:** The former Fairview Borough area. For purposes of lot and yard requirements in the B-1 and B-2 Business Districts, the Village Area comprises those lots bounded by Chestnut Street and Pfeffer Avenue (and extensions thereof) between Trout Run and Muddy Run. Reference is made to the Overlay District, which is not extended to the entire Village Area.

**WIND ENERGY FACILITY OR COMMERCIAL WIND ENERGY FACILITY:** Those facilities as may be authorized as special exceptions in the districts enumerated in this Ordinance and further meaning an electric generating facility whose main purpose is to supply electricity, consisting of one or more wind turbines and other accessory structures and buildings, including substations, meteorological towers, electrical infrastructure, transmission lines and other appurtenant structures and facilities.

**WIND TURBINE:** A wind energy conversion system that converts wind energy into electricity through the use of a wind turbine generator and includes the nacelle, rotor, tower and pad transformer, if any.

A. **Agricultural wind turbine:** A wind energy conversion that converts wind energy into electricity for the use of an agricultural operation.

B. Individual wind turbine: A wind energy conversion that converts wind energy into electricity for the use of the principal or permitted structure in a specific zoning district.

YARD: A required open space unoccupied and unobstructed by any structure or building or portion of a structure or building above the general ground level of the graded lot upward, allowing for fences and walls that may be permitted in any yard, subject to the limitations as indicated herein.

YARD, FRONT: The minimum open space extending across the entire width of the lot between the front building line and the street right-of-way line. For lots one acre or larger in area, other detached structures may be permitted behind the front yard space subject to limitations as indicated herein.

YARD, REAR: The open space (required and/or additional) extending across the entire width of the lot between the back line of the principal building and the rear lot line (not necessarily a street line), but not less than the required space throughout the entire width of the building or structure for irregular lots.

YARD, SIDE: The open space (required and/or additional) extending from the side of the principal building along the side lot line (not necessarily a street line) throughout the entire width of the principal building.

YARD SALE: A temporary sale including garage sales, driveway sale, home sale and the like. It is an accessory use to the residential dwelling, but is limited to a maximum of four days per sale conducted between sunrise to sunset, and not more than three sales per calendar year.

ZONING: The legal and administrative process of dividing the community into zoning districts and regulating within such districts the use and area requirements of land and the use, height, and area of buildings for the purpose of conserving and promoting the health, safety, morals, convenience and general welfare of the people of the community. Zoning is the instrument for giving effect to that part of the Comprehensive Plan which is concerned with the private uses of and the private development on privately owned land, and with that part which is concerned with public uses and facilities.

ZONING HEARING BOARD: That board assigned the duties of judging various appeals of persons aggrieved by the interpretation of the terms of this Ordinance.

ZONING OFFICER: That individual authorized by the Board of Supervisors to be the administrator of the day-to-day application of the provisions contained in this Ordinance.

**ZONING PERMIT:** A permit issued that indicates that a proposed use, building, structure or activity is in accordance with the provisions of this Ordinance and other applicable ordinances and regulations of the Township and which authorizes the applicant to proceed with such use, construction or other activity. The zoning permit shall be the means by which the Township regulates user activities other than construction and other actions expressly regulated by the Pennsylvania Construction Code, but which otherwise governs such activities. Action on a zoning permit that relates to regulation of this Ordinance shall be subject to appeal under this Ordinance. Action on a zoning permit that relates to regulations of other laws or ordinances shall be subject to review as specified in such laws and other ordinances.

**ZOO:** A place where animals are kept, often in a combination of indoor and outdoor spaces, and the primary purpose is to be viewed by the public.

## ARTICLE V

### ZONING DISTRICTS

#### Section 500 ESTABLISHMENT OF DISTRICTS

For the purpose of applying the regulations, restrictions and provisions of this Ordinance and to provide for diversified residential development separated from commercial, industrial and agricultural uses, and to identify hazard areas, the Township of Fairview is hereby divided into the following zoning districts:

- R-1 Village District
- R-2 Suburban Single District
- R-3 Suburban Multi District
- B-1 Neighborhood Business District
- B-2 Highway Commercial District
- B-3 Commercial Industrial District
- I-1 Light Industrial District
- I-2 Industrial Park District
- I-3 Heavy Industrial District
- A-1 Rural District
- A-2 Agrarian District
- A-3 Conservation District

#### Section 501 ZONING DISTRICTS MAP

The boundaries of these districts are hereby established as shown on the map entitled "Fairview Township Zoning Map" on file in the office of the Zoning Officer. This map with all explanatory matter thereon shall be deemed to accompany, be and is hereby made a part of this Ordinance.

#### Section 502 BOUNDARIES

Where uncertainty exists as to the boundaries of districts as shown on the Zoning Map, the following rules shall apply:

- A. Boundaries indicated as approximately following the centerlines of streets, highways or alleys shall be construed to follow such centerlines.

B. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.

C. Boundaries indicated as approximately following municipal limits shall be construed as following municipal limits.

D. Boundaries indicated as parallel to or extensions of features indicated in subsections A through C of Section 502 shall be so construed. Distances not specifically indicated on the zoning map shall be determined by the scale of the map.

E. Boundaries delineated as flood plain within the Conservation District at risk to be inundated by the 100 year flood shall be based upon the Flood Insurance Study prepared for Fairview Township by the Federal Emergency Management Agency (FEMA) and as amended. Any revision to these boundaries shall be reviewed and approved by the Flood Insurance Administration.

F. Boundaries indicated as approximately delineated for coastal and bluff recession hazard areas within the A-3 Conservation District shall be used upon the Great Lakes Research Institute Study of Lake Erie prepared for the Pennsylvania Department of Environmental Resources, now DEP.

G. Airport height limitations boundaries indicated are based upon delineations as established under Act 107 of 1945 and as amended by Act 161 of 1980, 2 P.S. 1553.

## ARTICLE VI

### APPLICATION OF REGULATIONS

#### Section 600 USE OF PROPERTY

No building or land shall hereafter be used or occupied and no building or part thereof shall be erected, moved or altered unless in conformity with the requirements herein specified for the district in which it is located.

#### Section 601 RESTRICTIONS

A. No building shall hereafter be erected or altered in the following ways:

1. To exceed the height restrictions applicable to the district in which the building is located.
2. To accommodate a greater number of families than allowed by this ordinance.
3. To occupy a greater percentage of lot area than allowed by this ordinance.
4. To have narrower or smaller rear yards, front yards or side yards than are specified herein for the district in which such building is located.

B. Prior to any proposed alteration or relocation of any stream, water of the Commonwealth or watercourse within the municipality, any required permit, plan or approval shall be obtained from the Pennsylvania Department of Environmental Protection, Bureau of Dams and Waterway Management or Conservation District; further, notification of the proposal shall be given to all affected adjacent municipalities where required. Copies of such notifications shall be forwarded as needed to both the Federal Insurance Administration and the Erie County Conservation District, and a set of plans shall be filed with the Planning Commission of Fairview Township.

C. Prior to any earth moving activities, the developer shall comply in full with all permitting requirements of the Pennsylvania Department of Environmental Protection and the Conservation District, prepare an erosion and sedimentation control plan and obtain such necessary permits that shall meet the standards of Chapter 102 (Erosion Control) of Title 25 Rules and Regulations of the Pennsylvania Department of Environmental Protection and shall be reviewed and found adequate by the Erie County Conservation District.

D. All development requiring sanitary sewer facilities must comply with the Township of Fairview Sewer Authority regulations. All other development not regulated by the Township of Fairview Sewer Authority will comply with the requirements for sewage facilities, construction and service as regulated by the Pennsylvania Department of Environmental Protection and the Erie County Department of Health.

E. All water supplies will be provided in compliance with the requirements for drinking water by the Pennsylvania Department of Environmental Protection, the United States Environmental Protection Agency and the Erie County Department of Health.

**ARTICLE VII**  
**ALLOWABLE USES**

**Section 700            R-1 VILLAGE DISTRICT**

A.    Permitted Uses

1.    Single-family detached dwellings.
2.    Group residence facilities.
3.    Parks, playgrounds and other recreational uses owned and/or operated by a public entity or subdivision association.
4.    Educational, religious and philanthropic uses may be permitted as a special exception by the Zoning Hearing Board provided the following conditions are met:
  - a.    Applicant must comply with the Fairview Township Performance Standards Ordinance.
  - b.    Applicant must have an approved Land Development Plan that shows setbacks, screening or visual buffers to protect from noise and light and safe vehicular entrance and exits.
  - c.    Applicant must comply with all local, state and federal regulations.

B.    Accessory Uses

1.    Private garages or parking areas.
2.    Household pets.
3.    Home gardening without the sale of products (non-commercial).
4.    Signs. See Supplementary Regulations, Section 824.
5.    Home occupations. See Supplementary Regulations, Section 825.
6.    No-impact home-based business.

7. Individual wind turbines – see Section 829 setback requirements.
8. Other accessory uses customarily incidental to a permitted principal use.

C. Lot and Area Requirements

1. Minimum lot area.
  - a. Single-family detached dwellings - 10,000 square feet.
  - b. Other principal permitted uses - 20,000 square feet
2. Minimum lot width.
  - a. Single-family detached dwellings - 80 feet.
  - b. Other principal permitted uses - 100 feet.
3. Minimum front yard - 25 feet.
4. Minimum side yard.
  - a. Principal use - 16 feet total, six feet minimum one side.
  - b. Accessory use - five feet.
  - c. Street side on corner lot - 20 percent of lot width or 25 feet, whichever is less.
5. Minimum rear yard.
  - a. Principal use - 35 feet.
  - b. Accessory use - five feet.
6. Maximum building height - 40 feet.
  - a. Accessory use height 40 feet.
7. Maximum building lot coverage.
  - a. Principal use - 35 percent of total lot area.

b. Accessory use - 40 percent of rear and side yard area.

8. Minimum lot depth - 125 feet.

9. Maximum lot depth to width ratio - two to one.

D. Off-Street Parking Requirements

1. A minimum of two off-street parking spaces per single-family dwelling unit.

2. Section 700 A 2 uses: one space per 2,000 square feet of gross lot area.

3. Section 700 A 3 uses: one space for each three seats of assembly use and one space for each employee on maximum work shift.

**Section 701 R-2 SUBURBAN SINGLE DISTRICT**

A. Permitted Uses

1. Single-family detached dwellings.

2. Group residence facilities.

3. Parks, playgrounds and other publicly owned and/or operated uses, and subdivision association owned and/or operated recreational uses.

4. Educational, religious and philanthropic uses may be permitted as a special exception by the Zoning Hearing Board provided the following conditions are met:

a. Applicant must comply with the Fairview Township Performance Standards Ordinance.

b. Applicant must have an approved Land Development Plan that shows setbacks, screening or visual buffers to protect from noise and light, and have safe vehicular entrance and exits.

c. Applicant must comply with all local, state and federal regulations.

5. Municipal or civic buildings, public libraries and museums, and fire and police stations.

B. Accessory Uses

1. Private garages or parking areas.
2. Household pets.
3. Home gardening without the sale of products (non-commercial).
4. No-impact home-based business.

5. Chickens (females only), turkey, ducks, pheasants or quail may be permitted on lots one (1) acre or more with the following requirements:

a. A maximum number of three (3) female chickens, turkey, ducks, pheasants or quail of any combination per acre with no more than a total of twelve (12) per lot.

b. No male chickens permitted.

c. The lot area used by such animals must be completely enclosed by a fence or other method of enclosure (including, but not limited to, chicken tractors) and located a minimum of 10 feet from any property line.

d. Must follow Department of Environmental Protection (DEP) authorized manure management practices.

e. Accessory buildings (hen houses, coops or barns) housing the animals must be located a minimum of 25 feet from any property line and located to the side or rear of the principal structure.

(1) Hen houses, coops and chicken tractors shall be designed to provide safe and healthy living conditions for the poultry with a minimum of 3 square feet per bird, while minimizing adverse impacts to other residents in the neighborhood. The accessory building must be kept in good repair.

f. Slaughtering and butchering of poultry must be done in a sanitary manner indoors and waste disposed of properly.

g. Deceased animals must be disposed of properly.

6. Signs. See Supplementary Regulations, Section 824.
7. Individual wind turbines – see Section 829 setback requirements.
8. Bed and Breakfast Inns shall be permitted as a Special Exception by the Zoning Hearing Board with the following restrictions:
  - a. The minimum lot size shall be (2) two acres.
  - b. The principle structure must maintain a minimum of one-hundred (100) foot setback to the nearest parcel boundary.
  - c. Must meet the definition of the term set forth in Section 401, Article 4.
  - d. Must meet all the requirements of the Pennsylvania Construction Code.
  - e. Minimum one parking space per guest room, plus two spaces for the single family dwelling and one space for each employee.
  - f. Permanent signs shall not be permitted.
  - g. The parcel must have a safe and adequate vehicular entrance and exit.
  - h. Must obtain an annual occupancy permit.
  - i. A breakfast meal only shall be provided to inn guests and residents.
9. Other accessory uses customarily incidental to a permitted principal use.

C. Lot and Area Requirements

1. Minimum lot area.
  - a. Single-family detached dwellings - 20,000 square feet.
  - b. Other permitted principal uses - one acre.

2. Minimum lot width.
    - a. Single-family detached dwellings - 100 feet.
    - b. Other permitted principal uses - 135 feet.
  3. Minimum front yard - 35 feet.
  4. Minimum side yard.
    - a. Principal use - 24 feet total, 10 feet minimum one side.
    - b. Accessory use - five feet.
    - c. Street side on corner lot - 20 percent of lot width or 35 feet,
- whichever is less.
5. Minimum rear yard.
    - a. Principal use - 40 feet.
    - b. Accessory use - five feet.
  6. Maximum building height - 40 feet.
    - a. Accessory use 40 feet.
  7. Maximum building lot coverage.
    - a. Principal use - 35 percent of total lot area.
    - b. Accessory use - 40 percent of rear and side yard area.
  8. Minimum lot depth - 175 feet.
  9. Maximum lot depth to width ratio - three to one.

D. Off-Street Parking Requirements

1. A minimum of two off-street parking spaces per family dwelling unit.
2. Municipal or civic buildings, public libraries and museums, and fire and police stations - one space for every 100 square feet of service floor area.

3. Section 701 A 2 uses: one space per 2,000 square feet of gross lot area.

4. Section 701 A 3 and 4 uses: one space for each three seats of assembly use and one space for each employee on maximum work shift.

**Section 702 R-3 SUBURBAN MULTI DISTRICT**

**A. Permitted Uses**

1. Single-family detached dwellings.

2. Group residence facilities.

3. Multiple-family dwellings.

4. Parks, playgrounds and other publicly owned and/or operated uses and subdivision association owned and/or operated recreational uses.

5. Educational, religious and philanthropic uses may be permitted as a special exception by the Zoning Hearing Board provided the following conditions are met:

a. Applicant must comply with the Fairview Township Performance Standards Ordinance.

b. Applicant must have an approved Land Development Plan that shows setbacks, screening or visual buffers to protect from noise and light and have safe vehicular entrance and exits.

c. Applicant must comply with all local, state and federal regulations.

6. Municipal or civic buildings, public libraries and museums, and fire and police stations.

7. Group homes, independent and assisted living residences, skilled nursing care homes, and resident hospitals may be permitted as a special exception by the Zoning Hearing Board provided the following conditions are met:

a. Appropriate registrations and certifications from the approval agency or agencies shall be submitted with the application for permit, and any change in such information shall be forwarded to the Zoning Officer within 30 days.

b. All residents of the home or facility shall be residents of Fairview Township.

c. The illumination of parking areas and buildings and the display of signs are placed in a manner minimizing the disturbance to the adjacent lots and street right-of-ways.

d. Persons receiving treatment under Article III (Involuntary Examination & Treatment) and/or Article IV (Determinations affecting those charged with a crime or under sentence) of the Mental Health Procedures Act shall not be eligible for residing in the facility.

e. Intellectually disabled individuals shall be certified by Erie County mental retardation authorities as capable of residing in the facility.

f. Building Setbacks

(1) front yard - 50 feet along township roads.  
- 100 feet along state roads.

(2) side yard - 100 feet.

(3) rear yard - 100 feet.

g. maximum building height - 40 feet.

B. Accessory Uses

1. Private garages or parking areas.

2. Household pets.

3. No-impact home-based business.

4. Home gardening without the sale of products (non-commercial).

5. Signs. See Supplementary Regulations, Section 824.

6. Individual wind turbines - see Section 829 setback requirements.

7. Other accessory uses customarily incidental to a permitted principal use.

C. Lot and Area Requirements

1. Minimum lot area.

a. Single-family detached dwellings - 15,000 square feet.

b. Multiple-family dwellings.

(1) 10,000 square feet plus 4,500 square feet for each unit more than one. A maximum of eight units per acre and eight units on each lot of record.

c. Other permitted principal uses - 15,000 square feet except for any of the above uses permitted, as a special exception, shall be limited to a minimum of one acre. (Section 702 A 5 and 7)

2. Minimum lot width.

a. Single-family detached dwellings - 90 feet.

b. Multiple-family dwellings - 135 feet.

c. Other permitted principal uses - 135 feet.

3. Minimum front yard - 35 feet.

4. Minimum side yard.

a. Principal use.

(1) Single-family and multiple-family (not more than 2 units) - 24 feet total, 10 feet minimum one side.

(2) Multiple-family (more than 2 units) - 50 feet total, 20 feet minimum one side.

(3) Other - 50 feet total, 20 feet minimum one side.

b. Accessory use - five feet.

c. Street side on corner lot - 20 percent of lot width or 35 feet, whichever is less.

5. Minimum rear yard.
  - a. Principal use - 40 feet.
  - b. Accessory use - five feet.
6. Maximum building height - three stories or 40 feet.
  - a. Accessory use 40 feet.
7. Maximum building lot coverage.
  - a. Principal use - 35 percent of total lot area.
  - b. Accessory use - 40 percent of rear and side yard area.
8. Minimum lot depth - 150 feet.
9. Maximum lot depth to width ratio - three to one.

D. Off-Street Parking Requirements

1. A minimum of two off-street parking spaces per family dwelling unit.
2. Section 702 A 3 uses: one additional parking space for every two dwelling units.
3. Section 702 A 2 uses: one space per 2,000 square feet of gross lot area.
4. Section 702 A 4, 5 and 6 uses: one space for each three seats of assembly use and one space for each employee on maximum work shift.
5. Section 702 A 7 uses: one space for every two beds and one space for each employee on maximum work shift.

**Section 703**

**B-1 NEIGHBORHOOD BUSINESS DISTRICT**

A. Permitted Uses

1. Local retail businesses, branch banks/ATMs, and local offices, when business is conducted entirely within buildings.
2. Restaurants, coffee houses, arcades and other similar places of business and public amusement, when business is conducted entirely within buildings.
3. Restaurants, bed and breakfast homes, coffee houses, public amusement and other similar places of business with limited outdoor dining shall be permitted as a special exception by the Zoning Hearing Board with the following requirements:
  - a. Hours of outdoor dining shall be limited to between the hours of 7:00 a.m. to 9:00 p.m. daily.
  - b. All outdoor lighting shall be limited to comply with the Fairview Township Subdivision and Land Development Ordinance.
  - c. A buffering and screening plan shall be required and approved by the Zoning Hearing Board.
  - d. Noise levels, objectionable glare, smoke, or odors shall comply with the residential standards set by the Fairview Township Performance Standards Ordinance.
  - e. The maximum outdoor dining area shall not exceed 30 percent of the total indoor facility dining area. The area used for outdoor activities/uses shall be included in the required 100 square feet per parking space requirement.
4. Personal service businesses, including barber and beauty shops, custom tailor shops, laundry agencies, self-service laundries, hand laundries, shoe repair, dry cleaning, pressing or tailoring shops in which only non-explosive and non-flammable solvents and materials are used and where no work is done on the premises for business outlets elsewhere.
5. Bakery, candy, pastry, confectionery or ice cream retail sales with minor manufacturing permitted for sales on the premises only, provided that not more than four persons are employed during any one shift in such business.

6. Drive-in uses for the above Section 703 A 1 through 5 uses, excluding theaters and automobile fuel/vehicle service stations provided the following conditions are met:

a. No street entrance or exit for vehicles shall be located as follows:

(1) Within 200 feet of a street entrance or exit of any school, park or playground conducted for and attended by children.

(2) Within 75 feet of a lot in a Residential District.

b. No equipment above the surface of the ground shall be parked or stored closer than 25 feet to any property line.

c. The width of any entrance driveway leading from the public street to such drive-in use shall not exceed 30 feet at its intersection with the curb line or edge of pavement.

d. No two driveways leading from a public street to such drive-in use shall be within 25 feet of each other at their intersection with the curb or street line.

e. Parking and vehicle access shall be so arranged that there will be no need for motorists to back over sidewalks or into streets.

7. Outdoor recreation and commercial uses, excluding theaters, automobile fuel/vehicle service stations, boats, motor vehicle and equipment sales, or mobile and modular home sales, are permitted as a special exception by the Zoning Hearing Board provided the following conditions are met:

a. Such uses will not create hazardous conditions.

b. Such uses shall be designed to minimize the noise and lighting disturbances to the adjacent lots and street right-of-ways.

8. The Downtown Village overlay area where a residence may be placed in a B-1 or B-2 commercial structure shall also be determined as one principal or permitted use.

9. Bed and breakfast inn shall be permitted with the following restrictions:

a. The minimum lot size shall be 20,000 square feet.

- b. The inn must meet the definition of the term set forth in Section 401, article 4.
- c. The inn must meet all the requirements of the Pennsylvania Construction Code.
- d. Minimum one parking space per guest room, plus two spaces for the single family dwelling and one space for each employee.
- e. Permanent signs shall not exceed (12) twelve square feet in area and must comply with Section 824 B 1-9.
- f. The parcel must have safe and adequate vehicular entrance and exit.
- g. Must obtain an annual occupancy permit.
- h. A breakfast meal only shall be provided to inn guests and residents entirely within the building.

B. Accessory Uses

- 1. Signs. See Supplementary Regulations, Section 824.
- 2. Other accessory uses, on the same lot with and customarily incidental to a permitted principal use.
- 3. Individual wind turbines – see Section 829 setback requirements.

C. Lot and Area Requirements

- 1. Minimum lot area - 20,000 square feet except in the Village Area, which has a minimum of 10,000 square feet.
- 2. Minimum lot width - 100 feet except in the Village Area, which has a minimum of 80 feet.
- 3. Minimum front yard - 50 feet except in the Village Area, which has a minimum of 25 feet.

4. Minimum side yard.
  - a. Adjacent to residential districts - 20 feet.
  - b. Adjacent to all other zoning districts - 10 feet.
  - c. Accessory buildings - 10 feet.
5. Minimum rear yards.
  - a. Adjacent to residential districts - 40 feet.
  - b. Adjacent to all other zoning districts - 20 feet.
  - c. Accessory buildings - 10 feet.
6. Maximum building height - 40 feet.
  - a. Accessory use 40 feet.
7. Maximum building lot coverage - 50 percent.
8. Minimum lot depth - 175 feet except in the Village Area, where it is 125 feet.
  - a. Village Area - 125 feet.
9. Maximum lot depth to width ratio - three to one, including in the Village Area.
  - a. Village Area - three to one.

D. Off-Street Parking and Loading Requirements

1. Parking requirements:
  - a. One space for each 125 square feet of sales or service floor area and one space for each employee on maximum work shift.
  - b. Restaurants or other places serving beverages, rations or refreshments need one space for each three seats and one space for each employee on maximum work shift.
  - c. Small appliance and other repair shops need one space for each 500 square feet of floor space.

- d. Drive-in uses: 10 spaces.
  - e. Recreational uses: one space for each 300 square feet of gross lot area.
  - f. Arcades: one space per five machines.
  - g. Bed and breakfast home: one space per guest sleeping unit and two spaces for the family dwelling unit and one for each employee.
- 2. Loading requirements: one loading unit for each 10,000 square feet of sales floor area.

**Section 704            B-2 HIGHWAY COMMERCIAL DISTRICT**

**A. Permitted Uses**

- 1. Regional retail or professional service businesses, banks and offices.
- 2. Chain restaurants, hotels/motels, taverns, bowling alleys and other similar places of business and public amusement.
- 3. Personal service businesses including barber and beauty shops, custom tailor shops, laundry agencies, self-service laundries, hand laundries, shoe repair, dry cleaning, pressing or tailoring shops in which only non-explosive and non-inflammable solvents and materials are used.
- 4. Bakery, candy, pastry, confectionery or ice cream retail sales with minor manufacturing permitted for sales on the premises only, provided that not more than 10 persons are employed during any one shift in such business.
- 5. Drive-in uses for the above Section 704 A 1 through 4 uses, including theaters and automobile fuel/ vehicle service stations.
- 6. Outdoor recreation and commercial uses.
- 7. Automobile sales, service and/or rental.
- 8. Automobile repair garages when conducted entirely within a building and when not less than 100 feet from a Residential District. Vehicles located

on the lot for service shall have current registration plate affixed and be serviced within a 30 day period.

a. Accident vehicles requiring more than 72 hours for service shall be stored in a screened area and not visible from any property boundary.

(1) Screen shall be of masonry wall, solid wooden fence, chain link fence with filler strips or compact evergreen hedge to be kept in repair at all times.

(2) Height shall be equal to or greater than vehicles parked but not less than six feet.

b. Automobile parts may be stored in an area of not more than 200 square feet in an area screened and not visible from any property boundary.

c. All storage areas must be 50 feet from any rear yard and 15 feet from any side yard.

9. Automobile fuel stations and other drive-in uses are permitted provided the following conditions are met:

a. No street entrance or exit for vehicles shall be located as follows:

(1) Within 200 feet of a street entrance or exit of any school, park or playground conducted for and attended by children.

(2) Within 75 feet of a lot in a residential district.

b. No equipment above surface of ground shall be parked or stored closer than 25 feet to any property line.

c. The width of any entrance driveway leading from the public street to such service station or other drive-in use shall not exceed 30 feet at its intersection with the curb line or edge of pavement.

d. No two driveways leading from a public street to such service station or other drive-in use shall be within 25 feet of each other at their intersection with the curb or street line.

e. Parking and vehicle access shall be so arranged that there will be no need for motorists to back over sidewalks or into streets.

10. Shopping areas composed of integrated center for retail sales and services and amusement centers including plazas, malls and office parks.

11. The Downtown Village Overlay Area where a residence may be placed in a B-1 or B-2 commercial structure shall also be determined as one principal or permitted use.

12. Bed and breakfast inn shall be permitted with the following restrictions:

- a. The minimum lot size shall be 20,000 square feet.
- b. The inn must meet the definition of the term set forth in Section 401, article 4.
- c. The Inn must meet all the requirements of the Pennsylvania Construction Code.
- d. Minimum one parking space per guest room, plus two spaces for the single family dwelling and one space for each employee.
- e. The parcel must have safe and adequate vehicular entrance and exit.
- f. Must obtain an annual occupancy permit.
- g. A breakfast meal only shall be provided to inn guests and residents.
- h. Shall comply with supplementary regulations 824 signs.

B. Accessory Uses

1. Signs. See Supplementary Regulations, Section 824.
2. Other accessory uses, on the same lot with and customarily incidental to a permitted principal use.
3. Individual wind turbines - see Section 829 setback requirements.

C. Lot and Area Requirements

1. Minimum lot area - 20,000 square feet except in the Village Area, which has a minimum of 10,000 square feet.

2. Integrated center - one acre. Lot and area and construction requirements must be determined on the basis of the entire regional or integrated shopping area. These determinations shall include the following construction and design requirements:

a. Access (ingress and egress) shall be provided in accordance with the Pennsylvania Department of Transportation requirements and permit flow and turning movements with a minimum of traffic interruption.

b. Parking design including spacing, driving aisles and turning areas shall be well defined and permit maximum use of movement.

c. Lane separations, traffic directions and pedestrian access shall be well defined.

d. Building identification signs (marquees and canopies) shall comply with Section 824.

e. Plans for integrated centers, showing the location and design of all facilities, shall be submitted to the Planning Commission and Board of Supervisors for review and approval prior to the issuance of a zoning permit.

2. Minimum lot width - 100 feet except in the Village Area, where it is 80 feet.

3. Minimum front yard - 50 feet except in the Village Area, where it is 25 feet.

4. Minimum side yard.

a. Adjoining residential districts - 20 feet.

b. Adjoining all other zoning districts - 10 feet.

c. Accessory use - 10 feet.

5. Minimum rear yards.

a. Adjoining residential districts - 40 feet.

b. Adjoining all other zoning districts - 20 feet.

c. Accessory use - 10 feet.

6. Maximum building height - three stories or 40 feet including accessory use structures.
7. Maximum building lot coverage - 50 percent.
8. Minimum lot depth - 175 feet, except in the Village Area, where it is 125 feet.
9. Maximum lot depth to width ratio -three to one including the Village Area.

D. Off-Street Parking and Loading Requirements

1. Parking requirements:
  - a. One space for each 125 square feet of sales or service floor area and one space for each employee on maximum work shift.
  - b. Restaurants or other places serving beverages, food or refreshments: one space for each three seats and one space for each employee on maximum work shift.
  - c. Motor vehicle sales rooms, garages, repair shops: one space for each 500 square feet of floor space.
  - d. Drive-in uses: ten spaces.
  - e. Recreational uses: one space for each 300 square feet of gross lot area.
  - f. Bowling alleys and pool halls: five spaces per alley or table.
  - g. Bed and breakfasts, hotels and motels: one space per guest sleeping unit (Bed and breakfast - one space for each resident) and one space for each employee on maximum work shift.
2. Loading requirements: one loading unit for each 10,000 square feet of sales floor area.

**Section 705**

**B-3 COMMERCIAL INDUSTRIAL DISTRICT**

A. Permitted Uses

1. Retail, service businesses (either professional or personal), banks and offices.
2. Restaurants, drive-ins, hotels/motels, taverns, bowling alleys and other similar places of business and public amusement.
3. Food manufacturing.
4. Outdoor recreation and commercial uses.
5. Automobile sales, repair, service and rental.
  - a. Automobile repair garages when business is conducted entirely within a building and when not less than 100 feet from a Residential District. Vehicles located on the lot for service shall have current registration plate affixed and be serviced within a 30-day period.
  - b. Accident vehicles requiring more than 72 hours for service shall be stored in a screened area or an area least visible from any property boundary.
    - (1) Screen shall be of masonry wall, solid wooden fence, chain link fence with filler strips or compact evergreen hedge to be kept in repair at all times.
    - (2) Height shall be equal to or greater than vehicles parked but not less than six feet.
  - c. Automobile parts may be stored in an area of not more than 200 square feet that is screened and not visible from any property boundary.
  - d. All storage areas must be 50 feet from any rear yard and 15 feet from any side yard.
6. Automobile fuel stations and other drive-in uses are permitted provided the following conditions are met:

follows:

a. No street entrance or exit for vehicles shall be located as follows:

(1) Within 200 feet of a street entrance or exit of any school, park or playground conducted for and attended by children.

(2) Within 75 feet of a lot in a residential district.

b. No equipment above surface of ground shall be parked or stored closer than 25 feet to any property line.

c. The width of any entrance driveway leading from the public street to such service station or other drive-in use shall not exceed 30 feet at its intersection with the curb line or edge of pavement.

d. No two driveways leading from a public street to such service station or other drive-in use shall be within 25 feet of each other at their intersection with the curb or street line.

e. Parking and vehicle access shall be so arranged that there will be no need for motorists to back over sidewalks or into streets.

7. Industrial and retail integrated centers, amusement centers including plazas, malls and office parks.

a. Wholesale, warehousing and highway freight transportation warehouse.

b. Self-storage units.

c. Transportation terminals.

d. Distribution plants and beverage and bottling distribution.

e. Light manufacturing.

f. Laboratories and offices devoted to research, design, experimentation, development, processing and fabrication.

g. Utility, communication, electric and gas company operations.

h. Radio and television facilities and operations, telephone exchange and transformer stations.

- i. Contractor offices and equipment storage.
- j. Building material supply yard, but not including stone crushing or concrete/asphalt mixing and/or manufacturing.

These principal uses shall comply with all federal, state, county and local environmental and other statutes and regulations.

B. Accessory Uses

- 1. Signs. See Supplementary Regulations, Section 824.
- 2. Other accessory uses, on the same lot with and customarily incidental to a permitted principal use.
- 3. Individual wind turbine. See Supplementary Regulations, Section 829.

C. Lot and Area Requirements

- 1. Minimum Lot Area – 30,000 square feet.
  - a. Integrated Center – one acre. Lot and area and construction requirements must be determined on the basis of the entire regional or integrated shopping area. These determinations shall include the following construction and design requirements:
    - (1) Access (ingress and egress) shall be provided in accordance with the Pennsylvania Department of Transportation requirements and permit flow and turning movements with a minimum of traffic interruption.
    - (2) Parking design including spacing, driving aisles and turning areas shall be well defined and permit maximum use of movement.
    - (3) Lane separations, traffic directions and pedestrian access shall be well defined.
    - (4) Building identification signs (marquees and canopies) shall comply with Section 824.

(5) Plans for integrated centers, showing the location and design of all facilities, shall be submitted to the Planning Commission and Board of Supervisors for review and approval prior to the issuance of a zoning permit.

2. Lot Width - 135 feet.
3. Minimum front yard
  - a. 50 feet along township roads.
  - b. 75 feet along state roads.
4. Side yard
  - a. 25 feet.
  - b. 50 feet adjoining residential districts
  - c. Accessory use setback is the height of the structure but no less than 25 feet.
5. Rear yard
  - a. 50 feet.
  - b. 80 feet adjoining a residential district.
  - c. Accessory use setback is the height of the structure but no less than 25 feet.
6. Maximum building height - 50 feet, including accessory uses.
7. Maximum building lot coverage - 50 percent.
8. Maximum lot depth to width ratio -three to one.
9. No street entrance or exit for vehicles and no portion of equipment shall be located as follows:
  - a. Within 200 feet of a street entrance or exit of any school, park or playground conducted and/or attended by children.
  - b. Within 75 feet of an adjacent lot in a residential district.

10. No equipment above surface of ground shall be parked or stored closer than 25 feet to any property line.

11. The width of any entrance driveway leading from the public street to such use shall not exceed 130 feet at its intersection with the curb line or edge of pavement, and grade level shall be maintained for a distance of 100 feet into the lot.

12. No two driveways leading from a public street to such use shall be within 50 feet of each other at their intersection with the curb or street line.

13. Parking and vehicle access shall be so arranged that there will be no need for the motorist to back over a sidewalk or into a street.

#### D. Off street Parking

Space for off-street parking of employees, customers and visitors shall be required in the following manner and in accordance with other sections of this Zoning Ordinance governing off-street parking.

1. One space for each 125 square feet of sales or service floor area and one space for each employee on maximum work shift for permitted uses Section 705 A 1 through 4.

2. Restaurants or other places serving beverages, rations or refreshments: one space for each three seats and one space for each employee on maximum work shift.

3. Motor vehicle sales rooms, garages, repair shops: one space for each 500 square feet of floor space.

4. Drive-in uses: ten spaces.

5. Recreational uses: one space for each 300 square feet of gross lot area.

6. Bowling alleys and pool halls: five spaces per alley or table.

7. Hotels and motels: one space per guest sleeping unit and one space for each employee on maximum work shift.

8. Off-street parking spaces for uses within Section 705 A 7 may be interpreted to be an accessory use and shall conform to all requirements as to side yard and rear yard clearance and shall provide one parking space for every 800 square feet of

floor area for permitted uses. Visitor-only parking shall be permitted to the front of the building but in all cases there shall be at least 50 feet from the front lines of parking lots to the street right-of-way. Parking to the front of the building shall not exceed 10 percent of the required spaces except for lots along “main thoroughfares” where this restriction shall not apply.

9. All parking spaces provided in the district shall be located on the same property with the permitted use it is intended to serve.

10. Space also shall be provided for the parking of freight and delivery trucks during any time in which the off-street loading facilities prescribed in the Ordinance are insufficient to handle all such trucks waiting to use said facilities.

E. Off street loading and unloading storage.

1. Loading requirements: one unit for every 10,000 square feet of building area.

2. Off-street loading/unloading and storage space shall herein be interpreted to be an accessory use and shall conform to all requirements as to front, side and rear yard clearances as specified in this Zoning Ordinance.

3. All loading/unloading and storage space shall be located on the same property with the permitted use it is intended to serve.

4. All open areas used for storage of any type shall be enclosed by a solid wall or fence. All such solid walls or fences shall be a minimum of seven and a maximum of 15 feet in height and in no case shall storage of materials be permitted to exceed the height of the fence. Storage shall be limited to materials in accordance with the standards of the Pennsylvania Department of Environmental Protection, the U.S. Environmental Protection Agency and State Fire Marshall regulations.

5. In no case shall storage spaces or loading/unloading facilities be permitted in the front of any main building.

6. All loading/unloading facilities shall be located a minimum of 300 feet from any residential district boundary if operated at any time between the hours of 6:00 p.m. and 7:00 a.m.

7. Sufficient area shall be provided for loading/unloading and storage of motor vehicles used in the conduct of the business or industrial activity.

**Section 706**

**I-1 LIGHT INDUSTRIAL DISTRICT**

A. Permitted Uses

Only those industrial, manufacturing, compounding, processing, packaging or treatment uses and processes from the following listing are permitted when they comply with all federal, state, county, local environmental and other statutes and regulations.

1. Wholesale, warehousing and storage.
2. Highway freight, transportation and warehousing.
3. Transportation terminals.
4. Distributing plants, beverages, bottling and/or distribution.
5. The manufacturing, compounding, processing/packaging, treatment and distribution of such products as bakery goods, candy, cosmetics, pharmaceuticals, toiletries, food and kindred products.
6. Laboratories devoted to research, design, experimentation, processing and fabrication.
7. Utility, communication, communication towers, electric and gas company operations.
  - a. Communication towers must allow for a co-location antennae for public emergency services and public safety.
  - b. Uses must comply with Section 706 D 6 a 1, 2, 3.
8. Radio and television facilities and operations, telephone exchange and transformer stations.
9. Carpenter, electrical, plumbing, welding, heating, or sheet metal shop, furniture upholstery shop, laundry and clothes cleaning establishments, printing shop or publishing plant.
10. Contractor equipment storage, building material supply and sales, but not including stone crushing or concrete/asphalt mixing and/or manufacturing.

11. Assembly, manufacturing, compounding, processing, packaging or treatment.

12. Office buildings and buildings used for research and development (R&D facilities).

13. Automobile repair garages shall be permitted as a special exception when conducted entirely in a building and when not less than 100 feet from a residential district. Vehicles located on the lot for service shall have current registration plate affixed and be serviced within a 30 day period.

a. Accident vehicles requiring more than 72 hours for service shall be stored in a screened area or an area not visible from any property boundary.

(1) Screen shall be of masonry wall, solid wooden fence, chain link fence with filler strips or compact evergreen hedge to be kept in repair at all times.

(2) Height shall be equal to or greater than vehicles parked but not less than six feet.

b. Automobile parts may be stored in an area of not more than 200 square feet in an area screened and not visible from any property boundary.

c. All storage areas must be 50 feet from any rear yard and 15 feet from any side yard.

#### B. Accessory Uses

The following accessory uses shall be permitted in the Light Industrial District provided the buildings and accessory buildings and uses comply with all requirements of other districts in which they are normally permitted under this ordinance.

1. On-site cafeterias or restaurants specifically designed and only for use by those employees and management of permitted uses in the Light Industrial District.

2. On-site recreational health facility, auditoriums, meeting rooms or other buildings only for the mutual use of the permitted uses located within the District, for meetings, programs, displays, recreation and other such uses as the users of the District may deem necessary. These facilities shall be prohibited for use by organizations, clubs and fraternities not specifically associated with businesses in the District.

3. Signs. See Supplementary Regulations, Section 824.
4. Individual wind turbines – see Section 829 setback requirements.
5. Other accessory uses customarily incidental to a permitted principal use.

C. Special Exception Accessory Uses

The following accessory uses shall be permitted in the Light Industrial District as special exceptions, provided the buildings and accessory buildings and uses comply with all requirements of other districts in which they are normally permitted and meet the requirements of this section.

1. Outdoor recreational facilities designed and intended for use by employees and management of those permitted uses within the district. These facilities and associated uses shall comply with all requirements of this section in respect to front yard, side yard and rear yard clearances. These facilities, if lighted, must meet the requirements set forth in the Fairview Township Subdivision and Land Development Ordinance and Performance Standards Ordinance regarding glare.

2. All heliports shall be licensed by the Pennsylvania Department of Transportation, Bureau of Aviation, and shall meet minimum requirements specified by the Federal Aviation Administration or other governing agency.

D. Lot and Area Requirements

1. Minimum lot area - one acre.
2. Minimum lot width - 135 feet.
3. Minimum front yard.
  - a. 50 feet along township streets.
  - b. 75 feet along state roads.
4. Minimum side yard.
  - a. 25 feet.
  - b. 100 feet adjacent to a residential district.

c. Accessory use setback is the height of the structure but no less than 25 feet.

5. Minimum rear yard.

a. 50 feet.

b. 100 feet adjacent to a residential district.

c. Accessory use setback is the height of the structure but no less than 25 feet.

6. Maximum building height - 50 feet with the following exceptions: Chimneys, water tanks, communication towers and antennae, individual wind turbine, ventilators and other similar structures, whether or not accessory to building or appurtenant thereto may be erected to a height exceeding 50 feet provided they are in compliance with the applicable federal regulations relative to objects affecting navigable air space.

7. Any such structures whose height at any point will exceed 100 feet shall only be permitted as a special exception by the Zoning Hearing Board with the following restrictions:

a. The structures must be in operation and not vacated for more than 6 months.

b. The applicant must supply Fairview Township with a bond or suitable form of financial surety for the removal of such structure.

c. The minimum setback to all property boundaries shall be the height of the structure, plus 30 percent.

7. Maximum building lot coverage - 50 percent.

8. Maximum lot depth to width ratio -three to one.

9. Minimum lot depth - 250 feet.

10. No street entrance or exit for vehicles and no portion of equipment shall be stored in these areas:

a. Within 200 feet of a street entrance or exit of any school, park or playground conducted and/or attended by children.

b. Within 75 feet of an adjacent lot in a residential district.

11. No equipment above the surface of ground shall be parked or stored closer than 25 feet to any property line.

12. The width of any entrance driveway leading from the public street to such use shall not exceed 130 feet at its intersection with the curb line or edge of pavement, and grade level shall be maintained for a distance of 100 feet into the lot.

13. No two driveways leading from a public street to such use shall be within 50 feet of each other at their intersection with the curb or street line.

14. Parking and vehicle access shall be so arranged that there will be no need for the motorist to back over a sidewalk or into a street.

#### E. Off-Street Parking

Space for off-street parking of employees, customers and visitors shall be required in the following manner and in accordance with other sections of this Zoning Ordinance governing off-street parking.

1. Off-street parking space herein may be interpreted to be an accessory use and shall conform to all requirements as to side yard and rear yard clearance and shall provide one parking space for every 800 square feet of interior floor area.

2. All parking spaces provided in the district shall be located on the same parcel with the permitted use it is intended to serve.

3. Sufficient parking spaces for employees, customers and visitors shall be provided. Visitor-only parking shall be permitted to the front of the building, but in all cases there shall be at least 50 feet from the front lines of parking lots to the street right-of-way. Parking to the front of the building shall not exceed 10 percent of the required spaces except for lots along "main thoroughfares" where this restriction shall not apply. All parking shall conform to Section 706 D 3, 4 and 5, lot and area requirements of this Ordinance.

4. Space also shall be provided for the parking of freight and delivery trucks during any time in which the off-street loading facilities prescribed in the Ordinance are insufficient to handle all such trucks waiting to use said facilities.

#### F. Off-Street Loading/Unloading and Storage

Space for off-street loading/unloading and storage shall be required in the following manner and in accordance with other sections of this Ordinance governing loading requirements.

1. Off-street loading/unloading and storage space shall herein be interpreted to be an accessory use and shall conform to all requirements as to front, side and rear yard clearances as specified in this Zoning Ordinance.

2. All loading/unloading and storage space shall be located on the same property with the permitted use it is intended to serve.

3. All open areas used for storage of any type shall be enclosed by a solid wall or fence. All such solid walls or fences shall be a minimum of seven and a maximum of 15 feet in height and in no case shall storage of materials be permitted to exceed the height of the fence. Storage shall be limited to materials in accordance with the standards of the Pennsylvania Department of Environmental Protection, the U.S. Environmental Protection Agency and State Fire Marshall regulations.

4. In no case shall storage spaces or loading/unloading facilities be permitted in the front of any main building.

5. All loading/unloading facilities shall be located a minimum of 300 feet from any residential district boundary if operated at any time between the hours of 6:00 p.m. and 7:00 a.m.

6. Sufficient area shall be provided for loading/unloading and storage of motor vehicles used in the conduct of the business or industrial activity.

7. Loading requirements: one unit for every 10,000 square feet of building area.

#### G. Landscaping Standards

The following landscaping standards shall be adhered to:

1. All earthen areas may be at the owner's option and shall be protected from erosion.

2. Landscaped yard areas may include the use of flagpoles, screens, terraces, fountains, pools and other water arrangements, and various types of trees and

shrubs. All trees, plants and shrubs shall be varieties that are adaptable to the local soil and climate condition and which blend with existing natural growth.

a. The use of shrubs, additional trees, (evergreen, deciduous and small flowering) annuals, perennials, spring flowering bulbs, and ground covers may be at the owner's option.

b. The owner is encouraged to keep as many of the existing trees on the site as possible.

c. The owner may elect to treat portions of the site as natural landscaping by encouraging the growth of native plants. Plants which can become a nuisance (Japanese honeysuckle, multiflora rose, autumn olive, or non-native invasive species) shall not be planted or maintained on the site.

3. All landscaped areas shall be perpetually maintained and in good condition at all times.

4. Landscaping devices shall not obscure the site distances in a manner that may create a traffic hazard. No trees shall be placed within 10 feet of any street right-of-way.

#### H. Utility Standards

1. Electrical and telephone service may be brought into the site where overhead service may be permitted.

2. Any lot in a Light Industrial District site shall be provided with an adequate water supply for both industrial and fire protection use. Private water supplies shall require a permit or water survey.

3. Any lot in a Light Industrial District site shall be provided with adequate sanitary sewage collection and treatment facilities, if applicable, in accordance with the requirements of the Pennsylvania Department of Environmental Protection and the Erie County Department of Health. Private sewage facilities shall require a sewer permit or a septic permit.

#### I. Fire Protection Standards

1. Direct and unobstructed access to the perimeter of all buildings shall be provided for emergency vehicles as follows: for buildings under 50,000 square feet - 50% of the perimeter; buildings over 50,000 square feet but less than 100,000 square feet - 75%; and buildings larger than 100,000 square feet - 100%.

2. Any street or driveway shall be considered an access point if located not more than 50 feet from the building served.

3. All means of access must be constructed to sustain the weight of emergency vehicles and shall not be less than 18 feet in width.

4. A fire hydrant shall be constructed on any industrial district site and connected to a public water system where a public water main is available at a lot boundary or within 1,000 feet of the lot boundary.

## **Section 707 I-2 INDUSTRIAL PARK DISTRICT**

### **A. Permitted Uses**

Only those industrial, manufacturing, compounding, processing, packaging or treatment uses and processes from the following listing are permitted when they comply with all federal, state, county, local environmental and other statutes and regulations.

1. Wholesale, warehousing and storage.
2. Highway freight, transportation and warehousing.
3. Transportation terminals.
4. Distributing plants, beverages, bottling and/or distribution.
5. The manufacturing, compounding, processing/packaging, treatment and distribution of such products as bakery goods, candy, cosmetics, pharmaceuticals, toiletries, food and kindred products.
6. Laboratories devoted to research, design, experimentation, processing and fabrication.
7. Utility, communication, communication towers, electric and gas company operations.
  - a. Communication towers must allow for a co-location antennae for public emergency services and public safety.
  - b. All operations must comply with Section 707 D 7 b 1, 2, 3.

8. Radio and television facilities and operations, telephone exchange and transformer stations.

9. Carpenter, electrical, plumbing, welding, heating, or sheet metal shop, furniture upholstery shop, laundry and clothes cleaning establishments, printing shop or publishing plant.

10. Building material supplies, contractor equipment storage, but not including stone crushing or concrete/asphalt mixing and/or manufacturing.

11. Assembly, manufacturing, compounding, processing, packaging or treatment.

12. Office buildings and buildings used for research and development (R&D) facilities.

13. Wind turbines for commercial sale of electricity are permitted in accordance with Section 828.

14. Compressors serving the oil and gas industry so long as they are located and operated in the following manner and in conformity with such other conditions as may be approved as a special exception by the Zoning Hearing Board provided the following conditions are met:

a. Applicant must comply with the Fairview Township Performance Standards Ordinance.

b. Applicant must have an approved Land Development Plan that shows setbacks, screening or visual buffers to protect from noise and light and must include safe vehicular entrance and exits.

c. Applicant must comply with all local, state and federal regulations.

d. All oil and gas industry compressors must comply with Section 830.

#### B. Accessory Uses

The following accessory uses shall be permitted in the Industrial Park District providing the buildings and accessory buildings and uses comply with all requirements of other districts in which they are normally permitted.

1. On-site cafeterias or restaurants specifically designed and only for use by those employees and management of permitted uses in the Industrial Park District.

2. On-site recreational health facility, auditoriums, meeting rooms or other buildings only for the mutual use of the permitted uses located within the district, for meetings, programs, displays, recreation and other such uses as the users of the district may deem necessary. These facilities shall be prohibited for use by organizations, clubs and fraternities not specifically associated with businesses in the district.

3. Individual wind turbines – see Section 829 setback requirements.

### C. Special Exception Accessory Uses

The following accessory uses shall be permitted in an Industrial Park District providing the buildings and accessory buildings and uses comply with all requirements of other districts in which they are normally permitted.

1. Outdoor recreational facilities designed and intended for use by employees and management of those permitted uses within the district. These facilities and associated uses shall comply with all requirements of this Section in respect to front yard, side yard and rear yard clearances. These facilities, if lighted, must be shielded away from any thoroughfares and residential districts and meet the requirements set forth in the Fairview Township Subdivision and Land Development Ordinance and Performance Standards Ordinance regarding glare.

2. All heliports shall be licensed by the Pennsylvania Department of Transportation, Bureau of Aviation, and shall meet minimum requirements specified by the Federal Aviation Administration or other governing agency.

3. Compressor stations shall be permitted as an accessory use as a special exception in the Industrial Park District provided the buildings and uses comply with all requirements of this section:

a. Applicant must comply with the Fairview Township Performance Standards Ordinance.

b. Applicant must have an approved Land Development Plan that shows setbacks, screening or visual buffers to protect from noise and light and must include safe vehicular entrance and exits.

c. Applicant must comply with all local, state and federal regulations.

D. Lot and Area Requirements

1. An Industrial Park District shall be required to contain a minimum of 50 acres of land area unless it is contiguous to an existing Industrial District.

2. Minimum lot area - one acre.

3. Minimum lot width - 135 feet.

4. Minimum front yard.

a. 50 feet along township streets.

b. 100 feet along state roads.

5. Minimum side yard.

a. 25 feet.

b. 100 feet adjoining a residential district.

c. Accessory use setback is the height of the structure but no less than 25 feet.

6. Minimum rear yard.

a. 50 feet.

b. 100 feet adjoining a residential district.

c. Accessory use setback is the height of the structure but no less than 25 feet.

7. Maximum building height - 50 feet with the following exceptions:

a. Commercial wind turbines, chimneys, water tanks, communication towers and antennae, ventilators and other similar structures, whether or not accessory to building or appurtenant thereto may be erected to a height exceeding 50 feet provided they are in compliance with the applicable federal regulations relative to objects affecting navigable air space.

b. Any such structures whose height at any point will exceed 100 feet shall only be permitted as a special exception by the Zoning Hearing Board with the following restrictions:

1. The structures must be in operation and not vacated for more than 6 months.

2. The applicant must supply Fairview Township with a bond or suitable form of financial surety for the removal of such structure.

3. The minimum setback to all property boundaries shall be the height of the structure plus 30 percent.

8. Maximum building lot coverage - 50 percent.

9. Maximum lot depth to width ratio -three to one.

10. Minimum lot depth - 250 feet.

E. Off-Street Parking

Space for off-street parking of employees, customers and visitors shall be required in the following manner and in accordance with other sections of this Zoning Ordinance governing off-street parking. There shall be no on-street parking permitted in an Industrial Park District under this zoning classification.

1. Off-street parking space herein may be interpreted to be an accessory use and shall conform to all requirements as to side yard and rear yard clearance and shall provide one parking space for every 800 square feet of floor area.

2. All parking spaces provided in the district shall be located on the same property with the permitted use it is intended to serve and conform to the landscaping requirements described in Section 707 H.

3. Sufficient parking spaces for employees, customers and visitors shall be provided. Visitor-only parking shall be permitted in the front of the building but in all cases there shall be at least 50 feet from the front lines of parking lots to the street right-of-way. Parking in the front of the building shall not exceed 10 percent of the required spaces except for lots along arterials and collectors where this restriction shall not apply. All parking shall conform to Section 707 D 3, 4, 5 and 6, lot and area requirements, of this Ordinance.

4. Space also shall be provided for the parking of freight and delivery trucks during any time in which the off-street loading facilities prescribed in the Ordinance are insufficient to handle all such trucks waiting to use said facilities.

F. Off Street Loading/Unloading and Storage

Space for off-street loading/unloading and storage shall be required in the following manner and in accordance with other sections of the Ordinance governing loading requirements.

1. Off-street loading/unloading and storage space shall herein be interpreted to be an accessory use and shall conform to all requirements as to front, side and rear yard clearances as specified in this Zoning Ordinance.

2. All loading/unloading and storage space shall be located on the same property with the permitted use it is intended to serve.

3. All open areas used for storage of any type shall be enclosed by a solid wall or fence. All such solid walls or fences shall be a minimum of seven and a maximum of 15 feet in height and in no case shall storage of materials be permitted to exceed the height of the fence. Storage shall be limited to materials in accordance with the requirement standards of the Pennsylvania Department of Environmental Protection, the U.S. Environmental Protection Agency and State Fire Marshall regulations.

4. In no case shall storage spaces or loading/unloading facilities be permitted in the front of any main building.

5. All loading/unloading facilities, if operated at any time between the hours of 6:00 p.m. and 7:00 a.m., shall be located a minimum of 300 feet from any Residential District boundary.

6. Sufficient area shall be provided for loading/unloading and storage of motor vehicles used in the conduct of the business or industrial activity.

7. Loading requirements: one unit for every 10,000 square feet of building area.

G. Signs and Lighting Requirements

1. Signs:

a. Only identification signs identifying the name and business of the persons or firms occupying the premises shall be permitted. Advertising signs, billboards, or other signs, except those specifically permitted, are prohibited. No free standing sign shall be larger than 40 square feet. No wall mounted sign shall be larger than 100 square feet. These restrictions shall not apply to informational signs at the entrance to the Industrial Park.

b. Identification signs shall generally be placed upon the outside walls of the buildings, but shall not extend above the line of the roof meeting the wall. However, identification signs may be placed within the front yard set-back area when they are constructed and designed to be a part of the landscaping element and provided that they are not placed within any applicable clear site distance. All other signs within the front yard set-back area, signs painted on exterior faces of buildings or on roofs or fences, flashing or moving signs are prohibited. Signs shall not be placed or externally illuminated in a manner which casts glare or is otherwise detrimental to neighboring occupancies or to the safe movement of traffic.

c. No sign shall be located within 100 feet of any intersection unless affixed to a building and not extending more than three feet beyond the same. This shall not apply to information signs within the Industrial Park so long as it is not in violation of subsection d of this section and any clear site triangle setback requirement.

d. No sign shall be erected or maintained in any yard which will in any way obstruct a view of any street intersection or otherwise create a traffic hazard.

e. Building and zoning permits shall be required for any exterior signs.

#### H. Landscaping Standards

The following landscaping standards shall be adhered to:

1. All areas not paved shall be screened by landscaping from public view with shrubs or trees and be properly sodded and seeded. All earthen areas shall be protected from erosion.

2. Landscaped yard areas may include the use of flagpoles, screens, terraces, fountains, pools and other water arrangements, and various types of trees and shrubs. All trees, plants and shrubs shall be native varieties that are adaptable to the local soil and climate condition and which blend with existing natural growth and shall be compatible with adjacent landscaped areas, in the opinion of a qualified landscape architect or horticulturist.

a. One large growing tree (maple, oak, honeylocust, etc.) shall be placed or planted for each 50 feet of property abutting a public right-of-way. Trees shall be in place or planted 10 feet outside of the right-of-way (depending on the location of utility easements).

b. One small flowering tree (dogwood, crabapple, hawthorn, etc.) or tall deciduous tree (maple, oak, honey locust, etc.) shall be in place or planted for each 100 feet of building perimeter. These trees shall be located in the landscaped areas of the site.

c. One small flowering or tall deciduous tree shall be in place or planted for each 12 parking spaces. These trees shall be planted adjacent to the parking areas.

d. The use of shrubs, additional trees, (evergreen, deciduous and small flowering) annuals, perennials, spring flowering bulbs, and ground covers shall be at the owner's option.

e. Minimum size plants which shall be counted in meeting the requirements of a, b and c are as follows:

(1) Street or tall deciduous tree: 1 1/2 inch trunk diameter, one foot above ground line.

(2) Small flowering tree: four to five foot when planted.

f. The owner is encouraged to keep as many of the existing trees on the site as possible.

g. The owner may elect to treat portions of the site as natural landscaping by encouraging the preservation or growth of native plants. Non-native or invasive plants that can become a nuisance (Japanese honeysuckle, multiflora rose, autumn olive, etc.) shall not be planted or maintained on the site.

3. All landscaped areas shall be perpetually maintained in good condition at all times.

4. Landscaping devices shall not obscure the site distances in a manner that may create a traffic hazard. No trees shall be placed within 10 feet of any street right-of-way.

## I. Utility Standards

1. Electrical and telephone service may be brought into the park overhead but shall be brought underground into the individual sites and to the buildings from the nearest available source with the exception of rail-served buildings where overhead service may be permitted. The purchaser or lessee will be responsible for the cost of such underground service. Pad-mounted electrical transformers and line splitters shall be located and screened so as to prevent viewing from any public street or adjacent property.

2. The Industrial Park District shall be provided with an adequate water supply for both industrial and fire protection use by service from the Fairview Township Water Authority. The water supply and system shall be constructed and comply with the specifications and requirements of the supplier.

3. The Industrial Park District shall be provided with adequate sanitary sewage collection and treatment facilities, if applicable, in accordance with the requirements of the Pennsylvania Department of Environmental Protection and the Erie County Department of Health. All sanitary sewer connections shall meet the requirements of the Fairview Township Sewer Authority.

## J. Fire Protection Standards

1. Direct and unobstructed access to the perimeter of all buildings shall be provided for emergency vehicles as follows: for buildings under 50,000 square feet -- 50% of the perimeter; buildings over 50,000 square feet but less than 100,000 square feet -- 75% of the perimeter; and buildings larger than 100,000 square feet -- 100% of the perimeter.

2. Any street or driveway shall be considered an access point if located not more than 50 feet from the building served.

3. All means of access must be designated to sustain the weight of emergency vehicles and shall not be less than 18 feet in width.

4. A fire hydrant shall be constructed on any lot in an Industrial Park District and shall be connected to a fire hydrant with a public water system where a public water main is available at a lot boundary or within 1,000 feet of the lot boundary.

## K. Visual Buffers

1. Where Industrial Park zoned properties abut residential districts along publicly dedicated roads, an earthen visual buffer shall be constructed. The

visual buffer shall be no less than 8 feet in height and shall have no greater than a two-to-one (2-to-1) slope on its sides and ends and be no less than six feet wide at its top. It shall be suitably landscaped using crown vetch or other ground cover approved by the Erie County Conservation District to prevent erosion on the slopes.

2. A 25 foot buffer strip shall be established where the Industrial Park District abuts residential districts. The visual buffer shall be planted with a mixture of hemlock and red maple trees one inch in diameter interspersed with red osier dogwood shrubs. All tree plantings shall be no closer than 12 feet to the property boundary. Hardwoods and softwoods shall be mixed to provide a pleasing appearance. Developer shall maintain buffer strip for two full growing seasons to allow the buffer plantings to develop their growth potential.

3. Visual buffers shall be maintained and kept in good repair at all times.

**Section 708 I-3 HEAVY INDUSTRIAL DISTRICT**

**A. Permitted Uses**

1. Wholesale, warehousing and storage.
2. Building materials supply, contractor equipment storage.
3. Distributing plant, beverage, bottling or distribution.
4. Laboratories devoted to research design, experimentation processing and fabrication.
5. Printing, publishing and allied processes.
6. Utility, communication, communication towers, electric and gas company operations.
  - a. Communication towers must allow for a co-location antennae for public emergency services and public safety.
  - b. All operations must comply with Section 708 C 6 and B 1, 2, 3.
7. Highway freight, transportation and warehousing.
8. Food and kindred products, package, storage and distribution.

9. Cleaning and dyeing works.

10. All assembly, manufacturing, compounding, processing, packaging or treatment facilities within all federal, state and county requirements.

a. All storage associated with principal uses 1 through 10 shall comply with storage provisions, as specified under the use provisions of 708 A 11 through 13, when applicable.

11. Storage of material may be permitted provided the following conditions are met:

a. The storage is limited to 50 feet from front property lines and 15 feet from side and rear yard property lines.

b. The storage area is completely enclosed by a sight-obscuring screen. This screen shall be a masonry wall, wooden fence, chain-link fence with filler strips or compact evergreen hedge or vines, at least eight feet in height and kept in repair at all times.

c. The height of the material stored shall not be greater than the height of the screen.

12. Junkyards are permitted provided the following conditions are met:

a. Site is completely enclosed by a sight-obscuring screen. This screen shall be a masonry wall, wooden fence, chain-link fence with filler strips or compact evergreen hedge or vines at least eight feet in height and kept in repair at all times.

b. The site contains one entrance and one exit less than 30 feet in width.

c. Storage is limited to non-organic material.

d. The site is located a minimum of 200 feet from any adjoining District.

e. The site is located a minimum of 100 feet from any street line.

f. Off-street parking is provided within the site enclosure.

g. On-site burning or incineration of vehicles is prohibited unless said burning is carried out in a completely enclosed incinerator as approved by the Township Fire Department and/or Department of Environmental Protection.

h. The height of the material stored shall not be greater than the height of the screen.

13. Landfill/transfer station and concrete mixing, asphalt processing facilities and mineral extraction including coal, limestone, sand, gravel, salt and other open-pit subsurface activities, concrete crushing, rock crushing facilities may be permitted as a special exception by the Zoning Hearing Board and shall meet the following requirements:

a. These uses shall be limited to land parcels greater than five acres in size.

b. There shall be a minimum 50 foot front, side and rear lot line setback for open-pit mineral extraction up to 20 feet deep. The setback requirement shall be increased two feet for each additional foot of depth in excess of 20 feet.

c. The excavation area shall be back filled and re-vegetated in such a manner as to permit future reuse of the land.

d. The mineral extraction process including cuts, slopes and embankments shall be in accordance with appropriate state open-pit mineral extraction safety requirements of the Pennsylvania Department of Environmental Protection.

e. The certification by the processing and/or extracting industry that the operations will be conducted in conformance with appropriate state requirements.

f. Landfill, transfer station and recycling separation requirements are also as follows:

(1) A buffer zone of 200 feet from all public rights-of-way and residential districts.

(2) A sight-obscuring screen that shall be a masonry wall, wooden fence, chain-link fence with filler strips or compact evergreen hedge or vines at least eight feet in height and kept in repair at all times shall parallel all public rights-of-way and adjacent properties for purposes of preventing the passing of windblown litter and preventing direct visibility of the working area from public rights-of-way and adjoining properties.

(3) The access shall consist of no more than two access routes, unless the landfill property borders three or more street rights-of-way.

(4) A bond shall be filed with the Fairview Township Board of Supervisors (amount to be determined by Fairview Township Engineer) to provide for final covering and reclamation as specified under the provisions set in accordance with the approval of the Pennsylvania Department of Environmental Protection permit for landfill, transfer station or recycling separation.

(5) Copy of approval and permit by the Pennsylvania Department of Protection, Bureau of Land Recycling and Waste Management and in conformance with the Pennsylvania Solid Waste Management Act shall be filed with the Fairview Township Board of Supervisors before a zoning permit may be issued.

14. Outdoor Billboard Advertising:

- a. Minimum of 750 feet between structures.
- b. Minimum building line of 50 feet.
- c. Maximum area of 300 square feet (12 feet x 25 feet) per advertisement facing.
- d. Maximum of two advertisement facings per location.
- e. Minimum of one off-street parking space.
- f. Maximum height of 22 feet above the road grade.
  - (1) Road grade elevation is determined from the center line of road.
  - (2) Facings shall not be stacked.
- g. The use of billboards with moving devices, intermittent lighting or billboards similar to traffic control devices are prohibited.
- h. All billboards must be constructed of durable materials, kept in repair and not allowed to become dilapidated. Each billboard shall be removed when the circumstances leading to its erection no longer apply.

B. Accessory Uses

1. Signs. See Supplementary Regulations, Section 824.
2. Other accessory uses customarily incidental to a permitted principal use.

C. Lot and Area Requirements

1. Minimum lot area - one acre.
2. Minimum lot width - 135 feet.
3. Minimum front yard.
  - a. 50 feet along township streets.
  - b. 100 feet along state roads.
4. Minimum side yard.
  - a. 25 feet.
  - b. 100 feet adjacent to a residential district.
  - c. Accessory use - the height of the structure but no less than 25 feet.
5. Minimum rear yard.
  - a. 50 feet.
  - b. 100 feet adjacent to a residential district.
  - c. Accessory use - the height of the structure but no less than 25 feet.
6. Maximum building height - 50 feet with the following exceptions:
  - a. Wind turbines to serve only the premises upon which they are located, chimneys, water tanks, communication towers and antennae, ventilators and other similar structures, whether or not accessory to building or appurtenant

thereto may be erected to a height exceeding 50 feet provided they are in compliance with the applicable federal regulations relative to objects affecting navigable air space.

b. Any such structures whose height at any point will exceed 100 feet shall only be permitted as a special exception by the Zoning Hearing Board with the following restrictions:

1. The structures must be in operation and not vacated for more than 6 months.

2. The applicant must supply Fairview Township with a bond or suitable form of financial surety for the removal of such structure.

3. The minimum setback to all property boundaries shall be the height of the structure, plus 30 percent.

7. Maximum building lot coverage - 50 percent.

8. Maximum lot depth to width ratio -three to one.

9. Minimum lot depth - 250 feet.

10. No street entrance or exit for vehicles and no portion of equipment shall be located in the following position:

a. Within 200 feet of a street entrance or exit of any school, park or playground conducted and/or attended by children.

b. Within 75 feet of an adjacent lot in a residential district.

11. No equipment above surface of ground shall be parked or stored closer than 25 feet to any property line.

12. The width of any entrance driveway leading from the public street to such use shall not exceed 130 feet at its intersection with the curb line or edge of pavement, and grade level shall be maintained for a distance of 100 feet into the lot.

13. No two driveways leading from a public street to such use shall be within 50 feet of each other at their intersection with the curb or street line.

14. Parking and vehicle access shall be so arranged such that there will be no need for the motorist to back over a sidewalk or into a street.

D. Off-Street Parking and Loading Requirements

1. Parking requirements: one space for every 800 square feet of floor area and one space for each employee on maximum work shift.
2. Loading requirements: one unit for every 10,000 square feet of building area.

**Section 709            A-1 RURAL DISTRICT**

A. Permitted Uses

1. Single-family detached dwellings.
2. Group residence facilities.
3. Parks, playgrounds and other publicly owned and/or operated recreational uses, including those of a subdivision association.
4. Educational, religious and philanthropic uses may be permitted as a special exception by the Zoning Hearing Board provided the following conditions are met:
  - a. Applicant must comply with the Fairview Township Performance Standards Ordinance.
  - b. Applicant must have an approved Land Development Plan that shows setbacks, screening or visual buffers to protect from noise and light and must include safe vehicular entrance and exits.
  - c. Applicant must comply with all local, state and federal regulations.
5. Municipal or civic buildings, public libraries and museums, and fire and police stations.
6. Cemeteries and mausoleums.

B. Accessory Uses

1. Private garages, barns, sheds and parking areas.
2. Household pets.

3. No-impact home-based business.
4. Home gardens.
5. Signs. See Supplementary Regulations, Section 824.
6. Home occupations. See Supplementary Regulations, Section 825.

7. Horticulture with the sale of products. Only one roadside stand selling the products produced on the premises or by the property owner is permitted provided the following conditions are met:

- a. The roadside stand must be temporary in design and located outside of the road right-of-way.
- b. There shall be a minimum of four off-street parking spaces outside of the road right-of-way.
- c. No more than 50% of the total product sold may be produced by another producer.

8. Horticulture with the sale of products may be permitted from a permanent structure as a special exception by the Zoning Hearing Board. Standards to be used by the Zoning Hearing Board shall include the following:

- a. Sales area inside the permanent structure shall be limited to a maximum of 1,000 square feet.
- b. No more than 50% of the total products sold may be produced by another producer.
- c. One parking space for every 100 square feet of sales area, with a minimum of four off-street parking spaces outside of the road right-of-way.

9. Agricultural animals are permitted on a minimum lot area of one (1) acre and less than three (3) acres provided:

- a. A maximum of seven (7) per acre consisting of any combination of the following: chickens (females only), turkey, ducks, pheasants or quail **and** a maximum of two (2) per acre consisting of any combination of the following: female or male castrated goats, sheep, miniature ponies or pot-bellied pigs.

b. The lot area used by such animals must be completely enclosed by a fence or other method of enclosure (including, but not limited to, chicken tractors), located a minimum of 10 feet from any property line.

c. Owner/operator must follow Department of Environmental Protection (DEP) authorized manure management practices.

d. Accessory buildings (hen houses, coops or barns) housing the animals must be located a minimum of 25 feet from any property line and located to the side or rear of the principal structure.

(1) Hen houses, coops and chicken tractors shall be designed to provide safe and healthy living conditions for the poultry with a minimum of 3 square feet per bird, while minimizing adverse impacts to other residents in the neighborhood.

(2) The accessory building must be kept in good repair.

e. Slaughtering and butchering of poultry must be done in a sanitary manner indoors and waste disposed of properly.

f. Deceased animals must be disposed of properly.

g. Properties adjacent to any R-1, R-2 or R-3 zoning district must have a fence or other method of enclosure (including, but not limited to, chicken tractors), containing the animals located no less than twenty-five (25) feet from any R-1, R-2 or R-3 zoning district property lines, and the structures housing the animals must be kept a minimum of 50 feet from any R-1, R-2 or R-3 zoning district property lines.

10. Agricultural animals are permitted on a minimum lot area of three (3) acres provided the following conditions are met:

a. A maximum of seven (7) per acre consisting of any combination of the following: chickens (females only), turkey, ducks, pheasants or quail and either a maximum of two (2) per acre consisting of any combination of the following: female or male castrated goats, sheep, miniature ponies or pot-bellied pigs **or** a maximum of one (1) per acre consisting of any combination of the following: horse, pig, cattle, llama or alpaca.

b. A maximum of 25% of the horses kept on the property may be boarded (or owned by a non-resident of the property).

c. The lot area used by such animals must be completely enclosed by a fence or other method of enclosure (including, but not limited to, chicken tractors), located a minimum of 10 feet from any property line.

d. Owner/operator must follow Department of Environmental Protection (DEP) authorized manure management practices.

e. Accessory buildings (hen houses, coops or barns) housing the animals must be located a minimum of 25 feet from any property line and located to the side or rear of the principal structure.

(1) Hen houses, coops and chicken tractors shall be designed to provide safe and healthy living conditions for the poultry with a minimum of 3 square feet per bird, while minimizing adverse impacts to other residents in the neighborhood.

(2) The accessory building must be kept in good repair.

f. Slaughtering and butchering of poultry must be done in a sanitary manner indoors and waste disposed of properly.

g. Deceased animals must be disposed of properly.

h. Properties adjacent to any R-1, R-2 or R-3 zoning district, must have a fence or other method of enclosure (including, but not limited to, chicken tractors), containing the animals located no less than twenty-five (25) feet from any R-1, R-2 or R-3 zoning district property lines, and the structures housing the animals must be kept a minimum of 50 feet from any R-1, R-2 or R-3 zoning district property lines.

11. Male chickens may be permitted as a special exception by the Zoning Hearing Board unless the parcel abuts any R-1, R-2 or R-3 zoning district. Standards to be used by the Zoning Hearing Board shall include the following:

a. A maximum number of two (2) male chickens.

b. The lot area used by such animals must be completely enclosed by a fence or other method of enclosure (including, but not limited to, chicken tractors), located a minimum of 10 feet from any property line.

c. Owner/operator must follow Department of Environmental Protection (DEP) authorized manure management practices.

d. Accessory buildings (hen houses, coops or barns) housing the animals must be located a minimum of 25 feet from any property line and located to the side or rear of the principal structure.

(1) Hen houses, coops and chicken tractors shall be designed to provide safe and healthy living conditions for the poultry with a minimum of 3 square feet per bird, while minimizing adverse impacts to other residents in the neighborhood.

(2) The accessory building must be kept in good repair.

e. Slaughtering and butchering of poultry must be done in a sanitary manner indoors and waste disposed of properly.

f. Deceased animals must be disposed of properly.

12. Agricultural wind turbines – see Section 829 setback requirements.

13. Individual wind turbines – see Section 829 setback requirements.

14. Bed and breakfast inn shall be permitted as a special exception by the Zoning Hearing Board with the following restrictions:

a. The minimum lot size shall be (2) two acres.

b. The principle structure must maintain a minimum of one-hundred (100) foot setback to the nearest parcel boundary.

c. The inn must meet the definition of the term set forth in Section 401, article 4.

d. The inn must meet all the requirements of the Pennsylvania Construction Code.

e. Minimum one parking space per guest room, plus two spaces for the single family dwelling and one space for each employee.

f. Permanent signs shall not exceed (12) twelve square feet in area and must comply with Section 824 A 1-11.

g. The parcel must have safe and adequate vehicular entrance and exit.

h. Owner/operator must obtain an annual occupancy permit.

i. A breakfast meal only shall be provided to inn guests and residents.

15. See Article VIII, Supplementary Regulations Section 827 with regard to the Pennsylvania Right to Farm Act, 3 P.S. 951, et seq. and the Pennsylvania Construction Code.

16. Other accessory uses customarily incidental to a permitted principal use.

D. Lot and Area Requirements

1. Minimum lot area

- a. Single-family detached dwellings - one acre.
- b. Other permitted principal uses - two acres.

2. Minimum lot width

- a. Single-family detached dwellings - 135 feet.
- b. Other permitted principal uses - 170 feet.

3. Minimum front yard - 35 feet.

4. Minimum side yard

- a. Principal use - 24 feet total, 10 feet minimum one side.
- b. Accessory use - 10 feet except for Section 709 B 9 and 10.
- c. Street side on corner lot - 20 percent of lot width or 35 feet,

whichever is less.

5. Minimum rear yard

- a. Principal use - 40 feet.
- b. Accessory use - 10 feet except for section 709 B 9 and 10.

6. Maximum building height shall be three stories or 40 feet except for agricultural wind turbines which shall not exceed 120 feet.

7. Maximum building lot coverage
  - a. Principal use - 35 percent of total lot area.
  - b. Accessory use - 40 percent of rear and side yard area.
8. Minimum lot depth - 200 feet.
9. Maximum lot depth to width ratio - four to one.

E. Off-Street Parking Requirements

1. A minimum of two off-street parking spaces per family dwelling unit.
2. Section 709 A 2 through 6 uses: one space per 2,000 square feet of gross lot area.
3. Section 709 A 3 and 4 uses: one space for each three seats of assembly use and one space for each employee on maximum work shift.
4. Section 709 B 7 b: a minimum of four off-street parking spaces outside of the road right-of-way.
5. Section 709 B 8 c: one parking space for every 100 square feet of sales area, with a minimum of four off-street parking spaces outside of the road right-of-way.

**Section 710            A-2 AGRARIAN DISTRICT**

A. Permitted Uses

1. Single-family detached dwellings.
2. Agricultural operations.
3. Agricultural operations with a single family dwelling in which the residence supports the agricultural operation.
4. Parks, playgrounds and other publicly owned and/or operated recreational uses, including those of a subdivision association.
5. Educational, religious and philanthropic uses as a Special Exception by the Zoning Hearing Board provided the following conditions are met:
  - a. Applicant must comply with the Fairview Township Performance Standards Ordinance.
  - b. Applicant must have an approved Land Development Plan that shows setbacks, screening or visual buffers to protect from noise and light and must include safe vehicular entrance and exits.
  - c. Applicant must comply with all local, state and federal regulations.
6. Municipal or civic buildings, public libraries and museums, and fire and police stations.
7. Cemeteries and mausoleums.
8. Private clubs, lodges and recreational buildings and/or facilities.
9. Mobile homes are permitted outside a mobile home park, provided the following conditions are met:
  - a. The mobile home shall be placed on a lot in compliance with all requirements of a single-family detached dwelling in the A-2 Agrarian District.
  - b. The entire mobile home shall be anchored for safety reasons to a permanent foundation as defined in this Ordinance.

c. The entire mobile home shall be skirted for safety reasons by fire resistant skirting as delineated in the Pennsylvania Construction Code Act and regulations promulgated thereunder.

10. Zoos, riding academies, stables, and kennels within federal, state and county requirements.

11. Private airstrips and airports.

12. Mobile home parks. See Supplementary Regulations, Article III - A, of the Fairview Township Subdivision and Land Development Ordinance.

13. Recreational vehicle parks, vacation home developments, and recreational camp parks. See Article III - Section 308, of the Fairview Township Subdivision and Land Development Ordinance or any amendment or successor thereto.

14. Group residence facilities.

B. Accessory Uses

1. Private garages, barns, sheds and parking areas.

2. Household pets.

3. No-impact home-based business.

4. Home gardens.

5. Signs. See Supplementary Regulations, Section 824.

6. Home occupations. See Supplementary Regulations, Section 825.

7. Sale of agricultural products, produced on the premises or by the property owner, is permitted from a temporary roadside stand provided the following conditions are met:

a. The roadside stand must be temporary in design and located outside of the road right-of-way.

b. There shall be a minimum of four (4) off-street parking spaces outside of the road right-of-way.

c. No more than 50% of the total product sold may be produced by another producer.

8. Sale of agricultural products, produced on the premises or by the property owner, is permitted from a permanent roadside stand provided the following conditions are met:

a. Sales area inside the permanent structure shall be limited to a maximum of 1,000 square feet.

b. No more than 50% of the total products sold may be produced by another producer.

c. One parking space for every 100 square feet of sales area, with a minimum of four off-street parking spaces outside of the road right-of-way.

9. Agricultural animals are permitted on lots with an area of less than three (3) acres provided the following conditions are met:

a. A maximum of seven (7) per acre consisting of any combination of the following: chickens (females only), turkey, ducks, pheasants or quail **and either** a maximum of two (2) per acre consisting of any combination of the following: female or male castrated goats, sheep, miniature ponies or pot-bellied pigs **or** a maximum of one (1) per acre consisting of any combination of the following: horse, pig, cattle, llama or alpaca.

b. A maximum of 25% of the horses kept on the property may be boarded (or owned by a non-resident of the property).

c. The lot area used by such animals must be completely enclosed by a fence or other method of enclosure (including, but not limited to, chicken tractors), located a minimum of ten (10) feet from any property line.

d. Owner/operator must follow Department of Environmental Protection (DEP) authorized manure management practices.

e. Accessory buildings (hen houses, coops or barns) housing the animals must be located a minimum of twenty-five (25) feet from any property line and located to the side or rear of the principal structure.

(1) Hen houses, coops and chicken tractors shall be designed to provide safe and healthy living conditions for the poultry with a minimum

of three (3) square feet per bird, while minimizing adverse impacts to other residents in the neighborhood.

(2) The accessory building must be kept in good repair.

f. Slaughtering and butchering of poultry must be done in a sanitary manner indoors and waste disposed of properly.

g. Deceased animals must be disposed of properly.

10. Agricultural related structures such as greenhouses, coops, barns, agricultural wind turbines, silos, corncribs, smokehouses, temporary sawmills, and temporary housing for agricultural workers.

11. Individual wind turbines – see Section 829 setback requirements.

12. Bed and breakfast inn shall be permitted with the following restrictions:

a. The minimum lot size shall be two (2) acres.

b. The inn must meet the definition of the term set forth in Section 401, article 4.

c. The inn must meet all the requirements of the Pennsylvania Construction Code.

d. Minimum one parking space per guest room, plus two spaces for the single family dwelling and one space for each employee

e. Permanent signs shall not exceed (12) twelve square feet in area and must comply with Section 824 A 1-11.

f. The parcel must have safe and adequate entrance and exit.

g. Owner/operator must obtain an annual occupancy permit.

h. A breakfast meal only shall be provided to inn guests and residents.

13. Agritourism may be permitted as a special exception by the Zoning Hearing Board with the following restrictions:

a. Must meet all requirements set forth with the Erie County Health Department, Department of Agriculture, and any Pennsylvania State Departmental agencies.

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- b. Must meet parking requirements as set forth in Section 710

- c. Must comply with all requirements of the Fairview Township Performance Standards Ordinance.

14. Recreational uses related to the agricultural principle use such as haunted houses, hayrides, corn mazes and seasonal agricultural uses are permitted.

15. See Article VIII, Supplementary Regulations Section 827 with regard to the Pennsylvania Right to Farm Act, 3 P.S. 951, et seq. and the Pennsylvania Construction Code.

16. Other accessory uses customarily incidental to a permitted principal use.

C. Lot and Area Requirements

1. Minimum lot area

- a. Agricultural operations - 3 acres.

- b. Single-family detached dwellings - 2 acres.

- c. Mobile homes - 2 acres.

- d. Zoos, private airstrips/airports, recreational vehicle parks, vacation home developments, and recreational camp parks - 10 acres.

- e. Other principal uses - 2 acres.

2. Minimum lot width

- a. Agricultural operations - 175 feet.

- b. Single-family detached dwellings - 150 feet.

- c. Mobile homes - 150 feet.

- d. Zoos, private airstrips/airports, recreational vehicle parks, vacation home developments, and recreational camp parks - 300 feet.

- e. Other principal uses - 150 feet.

3. Minimum front yard - 40 feet.
4. Minimum side yard
  - a. Principal use - 50 feet total, 20 feet minimum one side.
  - b. Accessory use - 10 feet except for section 710 B 9 e.
  - c. Street side on corner lot - 20 percent of lot width or 35 feet,  
whichever is less.
5. Minimum rear yard
  - a. Principal use - 80 feet.
  - b. Accessory use - 10 feet except for Section 710 B 9 e.
6. Maximum building height - three stories, or 40 feet or as specified elsewhere in this Ordinance.
  - a. Agricultural wind turbines - 200 feet.
7. Maximum building lot coverage
  - a. Principal use - 35 percent of total lot area.
  - b. Accessory use - 40 percent of rear and side yard area.
8. Minimum lot depth
  - a. Agricultural operations - 400 feet
  - b. Single-family detached dwellings - 250 feet.
  - c. Mobile homes - 250 feet.
  - d. Zoos, private airstrips/airports, recreational vehicle parks,  
vacation home developments, and recreational camp parks - 400 feet.
  - e. Other principle uses - 250 feet.
9. Maximum lot depth to width ratio - 5 to 1.

#### D. Off-Street Parking Requirements

1. A minimum of two (2) off-street parking spaces per family dwelling unit.
2. Section 710 A 2, 5 through 8, 10 and 11 uses: one (1) space per 2,000 square feet of building area.
3. Section 710 A 4 and 7, B 13 uses: one (1) space for each three (3) seats of assembly use and one (1) space for each employee on maximum work shift and twelve (12) spaces per hole for a golf course.
4. Section 710 B 7 b: a minimum of four (4) off-street parking spaces outside of the road right-of-way.
5. Section 710 B 8, 13 c: one parking space for every 100 square feet of sales area, with a minimum of four off-street parking spaces outside of the road right-of-way.

#### **Section 711 A-3 CONSERVATION DISTRICT**

Permitted Uses and Accessory Uses, lot, area and setback requirements shall comply with the adjacent zoned district closest to the parcel.

##### A. Purpose

The purpose of these provisions is 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 and private funds for flood and coastal erosion protection and relief, the impairment of the tax base and provide for the reservation and preservation of recreation lands by following these practices:

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, and coastal erosion problems;
2. prohibiting any use, activity and/or development that adversely affects the capacity of the channels or floodways of any watercourse, drainage ditch, or any other drainage facility or system;

3. requiring that all those uses, activities and developments that do occur in flood-prone and erosion-prone areas are to be protected and/or flood-proofed against flooding and erosion damages;

4. protecting individuals from buying lands and structures which are unsuited for their intended purposes because of flood and erosion hazards and/or reserved for recreation purposes.

#### B. Warning and Disclaimer of Liability

The degree of protection sought by the provisions of this Ordinance is considered reasonable for regulatory purposes and is based on acceptable engineering methods of study and delineation. Larger floods or greater amounts of erosion may occur. 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 flood plain and coastal hazard areas, or that land uses permitted within such districts will be free from flooding or erosion damages. Attention is directed to the Floodplain Ordinance of Fairview Township Ordinance - 2014 and any amendments and reenactments.

#### C. District Provisions

##### 1. Coastal and Bluff Recession Hazard Area:

a. In the Coastal and Bluff Recession Hazard Area, the following uses and activities may be permitted provided: they are not prohibited by any other ordinance; they do not require structures, fill or storage of materials and equipment (except stream or lake bank stabilization devices); they comply with the adjacent zoning district and they comply with the Pennsylvania Coastal Zone Management Act, as amended.

(1) Parks, playgrounds and other publicly owned and/or operated, and subdivision association owned and/or operated, recreational uses.

(2) Educational, religious and philanthropic uses.

(3) Private clubs, lodges and recreational uses.

(4) Agricultural and related activities.

(5) Accessory uses in all zoning districts.

(6) Installation of stream or lake bank stabilization devices upon approval by the township engineer.

b. The following uses and activities may be permitted as a special exception by the Zoning Hearing Board provided that they are not prohibited by any other ordinance and they comply with the adjacent zoning district:

(1) Water-related uses and activities such as marinas, docks, wharves, piers, etc., in the coastal area, but not in Coastal Bluff Recession Hazard Area.

(2) Structures or utility facilities are permitted only for: bluff recession control devices designed to reduce bluff recession, water withdrawals or discharge lines, power cables, natural gas or oil pipelines, communication cables or other public service lines which require access through the Coastal Bluff Recession Hazard Areas to Lake Erie.

(3) To achieve adequate protection of the bluff, any construction activities shall occur in a manner that minimizes potential short and long-term disruption of the Coastal Bluff Recession Hazard Area. The activity shall be in conformity with the Erosion and Sedimentation Control Provisions of the Erie County Conservation District, PADEP Rules and Regulations, 25 Pa.Code, Chapter 102, and shall comply with the requirements contained in the Fairview Township Stormwater Management Ordinance.

(4) To help ensure that all construction activities do not cause increased sediment and turbidity levels on Lake Erie and its tributaries, all activities shall comply with the erosion and sedimentation control provisions of the Erie County Conservation District, and PADEP Rules and Regulations, 25 Pa. Code, Chapter 102.

(5) The area of the construction site shall be reestablished to ensure that subsequent erosion will not damage the structure or harm the environment or adjacent properties.

c. A special exception may be granted for a substantial improvement of a structure on a parcel (for purposes of this section 711 C 1, these terms being defined at 32 P.S. 5203) so long as the structure was established prior to September 27, 1980, and where the parcel does not have adequate depth considering the minimum bluff setback requirements to provide for any reasonable use of the land. The variance shall be authorized when the following standards and criteria are met:

(1) The structure and all associated structures and utility facilities shall be located on the property as far landward of the bluff line as allowed by other municipal ordinances.

(2) The improvement must be attached to the existing structure in a manner so that it is as far landward of the bluff setback line as possible.

(3) The improvement must be a structure designed and constructed to be movable. Second floor additions are considered as an exception to requirements for movable construction.

(4) All roof drains and ground water drains associated with subject property shall be directed to the bottom of the Lake Erie bluff.

(5) Property owner must submit a plan for maintaining the Lake Erie bluff. (This plan should follow recommended maintenance by the Coastal Resources Program.)

d. Alteration or addition to existing structures in this area may also be permitted provided:

(1) The value of the improvement to a structure shall not exceed 50% of the market value of the structure prior to the improvement.

(a) Value shall be established by filing an appraisal performed by a licensed real estate appraiser familiar with Erie County and Fairview Township values at the time of application. Said appraisal shall limit future improvements to the structure for a five year period at such time a new appraisal and application may be filed.

e. Improvements to a structure to comply with existing minimum State or local health, sanitary, or safety specifications which are solely necessary to assure safe living conditions shall be exempt from the 50% improvement maximum established above.

D. The minimum width of the A-3 Conservation District is as provided:

1. Flood area from the center of the stream (or the 100 year floodplain, which is wider):
  - a. Walnut Creek – 150 feet.
  - b. Elk Creek – 150 feet.
  - c. Trout Run – 50 feet.
  - d. Bear Run – 50 feet.
  - e. Brandy Run – 50 feet.
2. Coastal Bluff Recession Hazard Area from the edge of the Lake Erie bluff: 100 feet in Fairview Township.
3. Recreational Area: as designated on the Fairview Township Zoning Map.

## ARTICLE VIII

### SUPPLEMENTARY REGULATIONS

The provisions of this Ordinance shall be subject to such exceptions, additions or modifications as herein provided by the following supplementary regulations.

#### **Section 800            ESSENTIAL SERVICES**

Essential services as defined in this Ordinance shall be permitted in all districts, subject to the restrictions reviewed and recommended by the Planning Commission with respect to use, design, yard area, setback and height.

#### **Section 801            BUILDING SETBACKS**

Where one or more preexisting buildings are located on both lots adjacent to the lot upon which a proposed building is to be constructed and within one hundred fifty (150) feet of the common property boundary with the lot upon which the proposed building is to be constructed, the setback of the proposed building shall conform with the average setbacks of the preexisting principal structures.

#### **Section 802            YARD REQUIREMENTS**

The following may project into the required yard as established herein:

- A.    Steps or stoops not exceeding 32 square feet in area.
- B.    Overhangs, eaves, chimneys, cornices and belt courses not exceeding two feet.
- C.    Open fire escapes not exceeding 54 inches.
- D.    Handicap ramps (not including decks or turning radii).
- E.    Ground level pads and sidewalks.
- F.    Sport courts shall meet the five foot accessory setback requirement (including all fencing).

**Section 803                    HEIGHT MEASUREMENT**

The vertical distance of a structure shall be measured from the average grade plane to the height of the highest roof surface.

A.     In the case of flat roof structures the vertical distance of a structure shall be measured from the highest point of the coping.

B.     In the case of mansard roof structures the vertical distance of a structure shall be measured from the deck line of roof. A habitable attic shall be counted as a story.

C.     In the case of a gable or hipped roof, the vertical distance of a structure shall be measured from the average height of room. A habitable attic shall be counted as a story.

**Section 804                    HEIGHT EXCEPTIONS**

The height limitations of this Ordinance shall not apply to flag poles, church spires, belfries, domes or similar projections not used for human occupancy nor to chimneys, ventilators, skylights, water tanks, public utility facilities, bulk heads, silos, antenna and other necessary mechanical and operational apparatus usually carried above the roof level, except where such structures would encroach into the airport approach height limitation zones and which structures shall not exceed the height set forth in the limitation zones. Wind turbines shall not be included as one of the above mentioned structures and are subject to the following restrictions:

A.     In the A-2 Agrarian District the maximum height for accessory structures shall not exceed two hundred (200) feet for individual wind turbines for agricultural purposes.

B.     In the I-2 Industrial Park District for commercial wind turbines, the maximum height shall not exceed three hundred fifty (350) feet and for individual wind turbines, two hundred (200) feet.

C.     In the A-1 Rural District, the maximum height for individual wind turbines shall be one hundred twenty (120) feet for agricultural purposes.

**Section 805 DWELLING ON SMALL LOTS**

Subject to the limitations imposed by the other provisions of this Ordinance, the Zoning Hearing Board may, by variance, permit the erection of a dwelling on any existing lot in a residential, rural and agrarian District where permitted by this Ordinance with a lot area or lot width smaller than that required for a single-family dwelling.

It is the expressed intention of Fairview Township that, due to the limitations presented by small lots, the granting of variances, in particular related to setbacks, open space and height restrictions, should not be granted. It shall be the responsibility of the Zoning Hearing Board to review all proposed permits under this Section with the Planning Commission.

**Section 806 CAMPING AND RECREATIONAL EQUIPMENT STORAGE OCCUPANCY AND USE**

Trailers as defined within the terms of this Ordinance and including mobile homes, travel trailers, pick-up coaches, motorized homes and boat trailers may be parked or stored subject to the following requirements:

A. Camping and recreational equipment may be parked and occupied on an agricultural, industrial or business property provided a temporary zoning permit is obtained. This permit shall be limited to one thirty-day period with one renewal of the same duration in any one calendar year.

B. Camping and recreational equipment may be parked and occupied on a residential property in a residential district provided a temporary zoning permit is obtained. This permit shall be limited to one consecutive two-week period with one renewal in any one calendar year.

C. The storing of camping and recreational equipment shall be limited to the interior of automobile garages or other available on-lot accessory buildings or to that portion of the lot behind or to the side of the principal building, but not extending beyond the front of the principal building.

**Section 807 MINERAL EXTRACTION**

A. The commercial drilling of unconventional wells (as defined by the Pennsylvania Department of Environmental Protection) is permitted in the I-2 District subject to the following provisions:

1. All such drilling operations shall be subject to the requirements of the Pennsylvania laws regulating oil and gas development.
2. A copy of any permits and approvals required pursuant to the aforementioned laws must also be submitted to the Fairview Township Zoning Officer.
3. Exploration sites shall be a minimum of 660 feet from all leased property lines.
4. A road bond shall be required for equipment transporting over municipal roads to an amount specified by the township engineer.
5. Well site and pit area shall be completely fenced with an 8 foot chain link fence upon removal of the drilling rig from the site.

B. The commercial or private drilling of conventional oil or gas wells (as defined by the Pennsylvania Department of Environmental Protection) is permitted in the I-3 and A-2 Districts subject to the following provisions:

1. All such drilling operations shall be subject to the requirements of the Pennsylvania laws regulating oil and gas development.
2. A copy of any permits and approvals required pursuant to the aforementioned laws must also be submitted to the Fairview Township Zoning Officer.
3. Exploration sites shall be a minimum of 660 feet from all leased property lines.
4. A road bond shall be required for equipment transporting over municipal roads to an amount specified by the township engineer.
5. Well site and pit area shall be completely fenced with an 8 foot chain link fence upon removal of the drilling rig from the site.
6. All such drilling operations shall be subject to the requirements of the Pennsylvania laws regulating oil and gas development.

C. The extraction of minerals such as granite, limestone, coal, sand or gravel is permitted in all industrial districts and the A-2 District as a special exception by the Zoning Hearing Board.

1. A copy of any permits and approvals required pursuant to the aforementioned laws must also be submitted to the Fairview Township Zoning Officer.
2. A road bond shall be required for equipment transporting over municipal roads to an amount specified by the township engineer.
3. All mineral extraction activities shall be subject to the Pennsylvania laws regulating mining.
4. Must comply with the Fairview Township Performance Standards Ordinance.

**Section 808 CLEAR SITE TRIANGLE AREA**

Fences, hedges or other plantings, temporarily parked or stored recreational vehicles, vehicles, structure or walls shall not be located on a lot of record to interfere with vision clearance across the corner lots. The height of such objects is restricted to three feet, measured from the center of road elevation within the clear sight triangle. The clear sight triangle is a triangular area of unobstructed vision on corner lots formed by a 120-foot sight line along the center of the arterial or collector street, by a 100-foot sight line along the center of the right-of-way for a minor street, except 70 foot line along minor streets in residential subdivision, and by a line adjoining these two sight lines at the greatest distance from their intersection.

**Section 809 STORAGE**

No lot or premises shall be used as a waste disposal facility or a dead animal rendering plant except in the 1-3 Heavy Industrial District. No manure, rubbish or miscellaneous refuse may be stored in the open within any district where the same may present an actual or threatened nuisance or menace to public health or safety. Waste collection facilities shall be located and constructed to shield the view from the general public by being incorporated into the principal structure or a portion of an accessory structure on the lot.

**Section 810 TEMPORARY STORAGE FACILITY**

Temporary storage facilities (including but not limited to, tractor trailer box units and covered and completely enclosed other trailer units), may receive a temporary zoning permit one time for up to 30 days with one renewal for the same length of time. When such a permit is issued, a time schedule for removal and the reason for the

temporary use must be provided. No permanent permit will be issued for such purpose. All such units must be kept in good repair and located in the rear yard of the property.

All such units must also comply with all yard requirements of the district in which they are located. All such units may be temporarily permitted per calendar year in districts as follows:

	Residential "R"	Business "B"	Industrial "I"	Agricultural "A"
Permit Period (Days)	60	120	120	120
Allowable Renewal	1	1	1	1

**Section 811 SWIMMING POOLS**

Private swimming pools are permitted only when located in the rear yard and shall comply with the requirements of the Pennsylvania Construction Code.

**Section 812 COMMERCIAL EQUIPMENT STORAGE**

Commercial equipment with or without signs including business vehicles, trucks or vans over a three (3) ton capacity tandems, tractor-trailers, semi-tractors or other commercial or construction or cargo-moving vehicles shall not under any conditions be stored or parked in any residential district, either on the property or in the right-of-way. Business vehicles with or without signs up to a three (3) ton capacity may be permitted for each residential dwelling with a limit of two (2).

**Section 813 MINIMUM FLOOR AREA PER DWELLING UNIT**

Any permanently located dwelling unit (to be used by the same family for more than 60 days) shall have a minimum gross floor area of 1,000 square feet for one-story dwelling units; and for two-story dwelling units or split level dwelling units, a minimum of 500 square feet on the first floor within the original structural design, exclusive of porches, patios, decks, breezeways, garages, carports, sun porches or other similar structural additions.

**Section 814 HELIPORTS AND HELISTOPS**

- A. Heliports are permitted in any industrial district.

B. Helistops are permitted in the B-2 District.

C. Heliports and/or helistops shall comply with the rules and regulations, inspection and licensing procedures of the Bureau of Aviation of the Pennsylvania Department of Transportation (PennDOT) and any approvals and clearances that may be required by the Federal Aviation Administration (FAA).

D. Minimum Landing Area Requirements

1. The minimum tract size for heliports and/or helistops shall be of sufficient size to meet the requirements of items 2 and 3 below.

2. Minimum size of the landing area shall be approximately 200 feet square or a circle with a diameter of 200 feet.

3. The landing pad shall be a minimum size of 60 feet square and have a hard surface area two times the rotor diameter.

4. The site shall be approachable from at least two sides and provide sufficient clearance as to allow take-offs and landings from the outer limits of the touch down pad of an eight-to-one ratio. The approach lanes for these landing facilities shall be considered or defined as an eight-to-one incline plane in the direction of the designated approach and departure flight paths which shall be 200 feet in width and shall extend outward 500 feet from the outer edge of the landing pad.

5. A site located adjacent to water shall have a boat, such as a rowboat, tied at the landing area to aid possible rescue operations.

6. A wind direction indicator shall be provided. In the case of night operation, the navigation facility shall be lighted.

E. REQUIREMENTS

Proof that the site has been inspected by the Bureau of Aviation of the Pennsylvania Department of Transportation and complies with the appropriate regulations and proof of any clearances or approvals that may be required from the Federal Aviation Administration (FAA) shall be provided to the zoning officer.

**Section 815            EASEMENTS**

No structure, planting or obstruction of any kind shall be placed or allowed to be placed in or on any underground public easement or access easement or interfere in any way with any public easement.

**Section 816            LIABILITY**

The provisions of this Ordinance are designed to fulfill the objectives cited in Section 200. The degree of protection sought by the conditions and requirements of this Ordinance for the present and future residents and landowners in Fairview Township is considered reasonable for regulatory purposes in the various zoning districts. This Ordinance does not imply that compliance with the minimum requirements or that land uses permitted within such districts will be free from inconvenience, conflicts, danger or damages. Therefore, this Ordinance shall not create liability on the part of individual members of the Board of Supervisors or any officer, appointee or employee of Fairview Township for any damages that may result from reliance on this Ordinance or any administrative decision lawfully made thereunder.

**Section 817            FENCES**

Except as set forth in this section, a fence may be installed and located up to a property boundary and is not regulated as to which direction it faces. Fences on public street corners shall not obstruct the Clear Site Triangle Area referenced in Section 808. Zoning permits are required for any fence six feet, six inches (6' 6") and higher.

Residential Zones: Front yard fencing shall not be greater than three feet in height. Side and rear yard fencing shall not be greater than eight feet in height, except for sport courts.

Commercial Zones: Front yard fencing shall not be greater than four feet in height. Side and rear yard fencing shall not be greater than 12 feet in height with a 10 foot setback from the public right-of-way.

Industrial Zones: Front, side and rear yard fencing shall not be greater than 12 feet in height with a 10 foot setback from the public right-of-way.

**Section 818            WATER DISCHARGE**

The discharge of sump pumps, footer drains, water softeners, roof drains and other sources of surface water including driveway drainage resulting from the development of lots or parcels onto any roadways or cartways is prohibited.

**Section 819            CHURCHES**

Churches are permitted in all zoning districts, except the industrial districts. The following conditions apply:

A.     Accessory Uses

1.     Accessory uses customarily incidental to the church are permitted, except dwellings shall not be permitted in the B-2 District and games of chance activities are only permitted in the B-2 District.

2.     One annual festival or bazaar is permitted wherein all fundraising activities may occur, which are customarily associated with such activity.

B.     Off-Street Parking Requirements

1.     No parking or maneuvering within any street right-of-way or on any sidewalk shall be counted as meeting the off-street parking requirements.

2.     Parking requirements: one space for each three seats of assembly use and one space for each employee on maximum work shift.

**Section 820            USE OF RIGHT-OF-WAYS**

Fences of any kind, underground irrigation systems, underground electronic dog fences, signs, hedges or other plantings, structures or walls, except mail boxes and paper tubes, placed at the risk of the resident, mounted on anything larger than a four inch by four inch wood post, 1 1/2 inch steel pipe or 1 1/2 inch T-iron shall not be located in the street right-of-way. Driveway drainage pipes, boulevard with trees or shrubs, subdivision association signs, may be permitted, when location, size and species are approved by the Board of Supervisors.

**Section 821                    RESIDENTIAL STORAGE STRUCTURES**

Residential lots with an area of 20,000 square feet or less shall have not more than 800 square feet of storage area, including garages and detached storage buildings.

Residential lots over 20,000 square feet in area but less than one acre in area shall have not more than 1,000 square feet in a storage structure, including garages and detached storage buildings.

Residential lots of one acre or more but less than two acres shall not have more than 1,200 square feet in a storage structure, including garages and detached storage buildings.

Any residential lot to exceed the area provisions of this section may be permitted storage in addition to 1,200 square feet of storage area as a special exception by the Zoning Hearing Board. Conditions to be considered in determining approval shall include the following: type of use, density of surrounding area, type of construction, size of structure including height, exterior lighting, setback requirements and open space, land use of surrounding area, and access of topography of a lot.

**Section 822                    AIRPORT HEIGHT LIMITATION**

Structures and trees shall be limited in height in accordance with provisions as established in the Fairview Township Airport Height Limitation Ordinance in addition to the provisions of this Ordinance. Lighting and electrical communications shall be prohibited from interfering with aircraft intending to use the Erie International Airport.

**Section 823                    PERFORMANCE STANDARDS**

All permitted uses must comply with the performance standards of the Township of Fairview as contained in the Fairview Township Performance Standards Ordinance.

**Section 824                    SIGNS**

A. Signs are permitted in the residential and agricultural districts provided these conditions are met:

1. Temporary signs such as signs advertising the sale, rental or development of property, temporary signs indicating the location and direction of

premises and not exceeding four square feet in area, temporary signs erected by churches, schools, civic organizations or other similar institutions are permitted provided the area of the sign does not exceed 12 square feet. No temporary signs shall be erected or displayed for more than six months in any one calendar year.

2. Permanent signs erected by agricultural uses and by churches, schools, civic organizations or other similar institutions shall not exceed 12 square feet in area.

3. Permanent signs designating recreational facilities shall not exceed 32 square feet in area.

4. Signs may have a reflective surface and be illuminated from the front or rear directed towards the sign. No sign, permanent or temporary, shall be installed in the clear sight triangle area if it is in conflict with sight line and clear sight triangle area requirement (Section 808) of the Fairview Township Zoning Ordinance.

5. The bottom-most part of the sign shall not exceed two feet above ground grade if not attached to a structure.

6. Stationary signs and billboards shall be regarded as structures within the meaning of this Ordinance. Advertising display on an agricultural barn or other building or surface shall be included as stationary signs.

7. Farm product signs shall be limited to three per land parcel and shall not exceed 25 square feet in cumulative area and shall be related solely to the sale of farm products produced thereon.

8. In addition to the other requirements of this section, every sign referred to herein must be constructed of durable materials, kept in repair and not allowed to become dilapidated. Each sign shall be removed when the circumstances leading to its erection no longer apply.

9. The use of signs with moving script, intermittent lighting or signs similar to traffic control devices is prohibited.

10. Permanent announcement signs designating home occupations, no-impact home-based businesses, and professional offices such as those of a physician, attorney, engineer or architect are permitted provided such signs do not exceed two square feet in area.

11. Permanent signs for bed & breakfasts in the A-1 and A-2 District shall not exceed 12 square feet.

B. Signs are permitted in the business and industrial districts provided these conditions are met:

1. Three signs per lot including freestanding, projecting or attached, having a cumulative total area of 200 square feet for B districts and 300 square feet for I districts (either back to back or independently), and are permitted and may be used for the following purposes:

a. Signs advertising the sale, rental or development of property.

b. Signs indicating the location of premises.

c. Signs advertising business of services, material use or equipment for rent or sale on the premises.

2. No sign shall exceed the height of 30 feet from the ground surface when attached to a building or 18 feet from the ground surface when freestanding.

3. All signs located in the B-1 or B-2 districts within the Village Area shall be located a minimum of 10 feet from the street right-of-way line.

4. Except as provided herein, no sign shall extend within 48 inches of a public right-of-way.

5. The use of signs with moving script, intermittent lighting or signs similar to traffic control devices are prohibited. Signs with changing displays shall not be considered moving provided they change no sooner than every 5 seconds.

6. Signs of no more than six (6) square feet directing and guiding traffic and parking on private property but bearing no advertising matter are permitted.

7. In addition to the other requirements of this section, every sign referred to herein must be constructed of durable materials, kept in repair and not allowed to become dilapidated. Each sign shall be removed when the circumstances leading to its erection no longer apply.

8. In addition to the other requirements of this section, any B, I-1, and I-3 district properties located within 1,000 feet of the intersection of Interstate 90 and Route 98 may have an additional high rise sign not to exceed 100 feet in height and a cumulative total square footage of 1,200 square feet.

9. Permanent signs for bed & breakfasts in the B-1 District shall not exceed 12 square feet in size.

C. Signs for non-conforming uses shall comply with all requirements of other districts in which the use would be conforming.

**Section 825                    HOME OCCUPATIONS & NO-IMPACT HOME BASED  
BUSINESSES**

A. No-impact home-based businesses in all R and A districts shall be permitted as an accessory use.

B. Home occupations in the R-1 and A districts shall be permitted as an accessory use provided the following conditions are met:

1. Official residence shall be maintained by the occupant who is an owner, a renter or a lessee conducting the business or home occupation.

2. The accessory use shall be located in the principal dwelling building.

3. The accessory use shall not occupy more than 25 percent of the ground floor area of the principal dwelling building.

4. There shall not be an animal hospital or animal clinic in connection therewith.

5. There shall not be more than two non-residents employed on the premises.

6. There shall be a minimum of four off-street parking spaces in addition to those required under the provisions of this Ordinance.

**Section 826                    DOWNTOWN VILLAGE OVERLAY**

The Downtown Village Overlay is an area prescribed by the B-1 and B-2 zoning districts within the confines of the defined Village area (the former Fairview Borough), as indicated on the 2015 Zoning Map.

This overlay area allows for the use of a single family dwelling combined with any principal use permitted in the B-1 and B-2 zoning districts. The combination of these two uses shall be considered as one principal permitted use.

**Section 827                    PENNSYLVANIA RIGHT TO FARM ACT AND  
PENNSYLVANIA CONSTRUCTION CODE**

Any action by Fairview Township under this Ordinance, where applicable, shall be in conformity and recognition of the Pennsylvania Right to Farm Act and the Pennsylvania Construction Code.

**Section 828.                    COMMERCIAL WIND FACILITIES**

Where permitted as a Special Exception, commercial wind facilities shall comply with the following:

**A.     Permit Requirement**

1.     No wind energy facility, or addition of a wind turbine to an existing wind energy facility, shall be constructed or located within Fairview Township unless a zoning permit has been issued to the facility owner or operator approving construction of the facility under this Ordinance.

2.     The zoning permit application or amended permit application shall be accompanied with a fee as set from time to time by the Board of Supervisors by resolution or ordinance.

3.     Any physical modification to an existing or permitted wind energy facility that materially alters the size, type or number of wind turbines or other equipment shall require a permit modification under this Ordinance and a fee as set forth in paragraph 2, above, shall be paid. Like-kind replacements shall not require a permit modification.

**B.     Permit Application**

1. The permit application shall demonstrate that the proposed wind energy facility will comply with this Ordinance.
2. The application shall contain the following:
  - a. A narrative describing the proposed wind energy facility, including an overview of the project; the project location; the approximate generating capacity of the wind energy facility; the approximate number, representative types and height or range of heights of wind turbines to be constructed, including their generating capacity, dimensions and respective manufacturers, and a description of ancillary facilities.
  - b. An affidavit or similar evidence of agreement between the property owner(s) and the facility owner or operator demonstrating that the facility owner or operator has the permission of the property owner(s) to apply for necessary permits for construction and operation of the wind energy facility and that the property owner accepts responsibility to decommission the facility upon the failure of the facility owner or operator to complete decommissioning.
  - c. Identification of the properties on which the proposed wind energy facility will be located and the properties adjacent to where the wind energy facility will be located and copies of all recorded setback waivers, if applicable.
  - d. A site plan showing the planned location of each wind turbine, property lines, setback lines, access road and turnout locations, substation(s), electrical cabling from the wind energy facility to the substation(s), ancillary equipment, buildings, and structures, including permanent meteorological towers, associated transmission lines, and layout of all structures within the geographical boundaries of any applicable setback.
  - e. Documents related to decommissioning.
  - f. A hydrologic analysis of surface and subsurface water systems conducted and certified by a hydro-geologist.
  - g. A flicker study demonstrating that flicker shall not exceed twenty-five (25) hours per twelve (12) month period at any occupied structure on the premises unless waived by each owner and occupant of the occupied structure.
  - h. Other relevant studies, reports, certifications and approvals as may be reasonably requested by Fairview Township to ensure compliance with this Ordinance and such permits as are required by applicable state or federal law, rule or regulations.

3. Notwithstanding Section 1001 F, within (30) days after receipt of a permit application, the Fairview Township Zoning Officer will determine whether the application is complete and advise the applicant accordingly.

4. Within sixty (60) days of a completeness determination, Fairview Township will schedule a public informational meeting pursuant to a notice published one time in a newspaper of general circulation published not less than seven (7) days before the meeting. The applicant shall present the project to the public and municipal officials and answer questions about the project. The public shall be afforded an opportunity to ask questions and provide comment on the proposed project.

5. Within one hundred and twenty (120) days of a completeness determination or within forty-five (45) days after the informational meeting, whichever is later, the Zoning Officer shall issue or deny the permit.

6. Throughout the permit process, the applicant shall promptly notify Fairview Township of any changes to the information contained in the permit application.

7. Changes to the pending application that do not materially alter the initial site plan may be adopted without a renewed informational meeting.

### C. Design and Installation

1. Design Safety Certification. The design of the wind energy facility shall conform to applicable industry standards, including, but not limited to, those of the American National Standards Institute. The applicant shall submit certificates of design compliance obtained by the equipment manufacturers from Underwriters Laboratories, Det Norske Veritas, Germanischer Lloyd Wind Energies or other similar certifying organizations. Wind energy facilities shall be promptly modified to comply with changes in design standards.

2. Uniform Construction Code. The wind energy facility shall comply with the Pennsylvania Uniform Construction Code, 34 Pa. Code §§403.1 - 403.142 and a building permit or permits shall be obtained and all related fees paid prior to construction.

3. Controls and Brakes. All wind energy facilities shall be equipped with a redundant braking system. This includes both aerodynamic overspeed controls (including variable pitch, tip and other similar systems) and mechanical brakes. Mechanical brakes shall be operated in a fail-safe mode. Stall regulation shall not be considered a sufficient braking system for overspeed protection. Ice sensors and control systems shall be employed to limit potential damage from falling ice.

4. Electrical Components. All electrical components of the wind energy facility shall conform to relevant and applicable local, state and national codes, and relevant and applicable international standards.

5. Visual Appearance; Power Lines.

a. Wind turbines shall be a non-obtrusive color such as white, off-white or gray.

b. Wind energy facilities shall not be artificially lighted, except to the extent required by the Federal Aviation Administration or other applicable authority that regulates air safety and shall comply with the lighting standards set forth in the Fairview Township Standards Performance Ordinance.

c. Wind turbines shall not display advertising, except for reasonable identification of the turbine manufacturer, facility owner and operator.

d. On-site transmission and power lines between wind turbines shall, to the maximum extent practicable, be placed underground.

6. Warnings.

a. A clearly visible warning sign concerning voltage must be placed at the base of all pad-mounted transformers and substations.

b. Visible, reflective, colored objects, such as flags, reflectors or tape shall be placed on the anchor points of guy wires and along the guy wires up to a height of ten feet from the ground.

7. Climb Prevention/Locks.

a. Wind turbines shall not be climbable up to fifteen (15) feet above ground surface.

b. All access doors to wind turbines and electrical equipment shall be locked or fenced, as appropriate, to prevent entry by non-authorized persons.

8. Turbine height shall not exceed three hundred fifty (350) feet.

D. Setbacks

1. Wind turbines shall comply with all of the following setback requirements:

a. Occupied Buildings. Wind turbines shall be set back from the nearest occupied building a distance of not less than five (5) times the hub height, as measured from the center of the wind turbine base to the nearest point on the foundation of the occupied building.

b. Property Lines. All wind turbines shall be set back from the nearest property line a distance of not less than the normal setback requirements for that zoning classification, or 1.75 times the turbine height, whichever is greater. The setback distance shall be measured to the center of the wind turbine base.

c. Public Roads. All wind turbines shall be set back from all public roads a distance of not less than 1.75 times the turbine height, as measured from the nearest right-of-way line of all public roads to the center of the wind turbine base.

2. Accessory structures and buildings shall be located not less than one hundred twenty (120) feet from all road rights-of-way and property lines of non-participating properties.

E. Use of Public Roads

1. The applicant shall identify all state and local public roads to be used within Fairview Township to transport equipment and parts for construction, operation or maintenance of the wind energy facility.

2. Fairview Township's engineer or a qualified third party engineer hired by Fairview Township, both to be paid for by the applicant, shall document road conditions prior to construction. The engineer shall document road conditions again thirty (30) days after construction is complete or as weather permits.

3. Fairview Township will require bonding of township roads in compliance with state regulations and applicable township ordinances.

4. Any road damage caused by the applicant or its contractors shall be promptly repaired at the applicant's expense, in accordance with applicable township ordinances and state regulations.

5. The applicant shall demonstrate that it has appropriate financial assurance to ensure the prompt repair of damaged roads.

#### F. Local Emergency Services

1. The applicant shall provide a copy of the project summary and site plan to local emergency services, including paid or volunteer fire department(s).
2. Upon request of the township, the applicant shall cooperate with emergency services officials to develop and coordinate implementation of an emergency response plan for the wind energy facility.
3. The applicant shall obtain a street address for each wind turbine.

#### G. Noise, Shadow Flicker and Ground Water

1. Audible sound from a wind energy facility shall be in conformity with the Performance Standards Ordinance of Fairview Township. Methods for measuring and reporting acoustic emissions from wind turbines and the wind energy facility shall utilize calibrated sound level instrumentation that complies with the latest revision of ANSI S1.4-Specifications of Sound Levels Meters, Type 1 or better and shall be conducted by an appropriately qualified individual. Upon request of the township, the facility owner and operator shall institute testing and provide all data showing compliance.
2. The facility owner and operator shall make every effort to minimize shadow flicker to any occupied building. Unless waived by the property owner and others occupying the occupied building by recorded written document as described in paragraph G, above, the presence of shadow flicker shall not exceed twenty-five (25) hours in total per twelve (12) month period. In addition, the facility owner and the operator shall pay for or provide suitable window shades and/or trees to mitigate the effect of permitted shadow flicker.
3. All wind energy facilities shall be designed and constructed in such fashion as to avoid any disruption and/or interference with private wells, springs and/or other water sources. In the event a problem occurs with any private water source, which problem is proximately caused by the wind energy facility, the facility owner and the operator shall immediately supply potable water in such quality and quantity as supplied by the original private water source.

#### H. Signal Interference

The facility owner or the operator shall make every effort to avoid any disruption or loss of radio, telephone, television or similar signals and shall take all reasonable steps to mitigate any harm caused by the wind energy facility. In the event such a loss

or disruption should occur, the facility owner and the operator shall take reasonable steps to mitigate the effect.

I. Liability Insurance

There shall be maintained a current general liability policy covering bodily injury and property damage with limits of at least \$10 million per occurrence and \$20 million in the aggregate. The facility owner or operator shall ensure that current certificates of insurance are continuously on file at Fairview Township.

J. Decommissioning

1. The facility owner and operator shall, at its expense, complete decommissioning of the wind energy facility within (12) twelve months after the end of the useful life of the facility or individual wind turbines. The wind energy facility will presume to be at the end of its useful life if no electricity is generated for a continuous period of twelve (12) months.

2. Decommissioning shall include removal of wind turbines, buildings, cabling, electrical components, roads, foundations to a depth of 36 inches, and any other associated facilities.

3. Disturbed earth shall be graded and re-seeded unless the landowner requests in writing that the access roads or other land surface areas not be restored.

4. An independent and certified professional engineer shall be retained by the facility owner or operator to estimate the total cost of decommissioning ("Decommissioning Costs") without regard to salvage value of the equipment. Said estimates shall be submitted to Fairview Township prior to construction and every fifth year thereafter.

5. The facility owner or operator shall post and maintain decommissioning funds in an amount equal to decommissioning costs plus ten per cent (10%). The decommissioning funds shall be posted and maintained with a bonding company or federal or Commonwealth chartered lending institution chosen by the facility owner or operator, provided that the bonding company or lending institution is authorized to conduct such business within the Commonwealth and is approved by Fairview Township.

6. Decommissioning funds may be in the form of a performance bond, surety bond, letter of credit or other form of financial assurance as may be acceptable to Fairview Township.

7. If the facility owner or operator fails to complete decommissioning within the period prescribed above, then the landowner shall have six (6) months to complete decommissioning.

8. If decommissioning is not completed within the periods prescribed by paragraphs K 1 through 7, above, then Fairview Township may take such measures as necessary to complete decommissioning, including directing the property owner to perform the decommissioning. The entry into and submission of evidence of the landowner agreement to Fairview Township shall constitute agreement and consent of the parties to the agreement, their respective heirs, successors and assigns that Fairview Township may take such action as necessary to implement the decommissioning plan.

9. The decommissioning funds shall be released when the facility owner or operator has demonstrated and Fairview Township concurs that decommissioning has been satisfactorily completed; or upon written approval of Fairview Township, in order to implement the decommissioning plan.

#### K. Public Inquiries and Complaints

1. The facility owner and operator shall maintain a phone number and identify a responsible person for the public to contact with inquiries and complaints throughout the life of the project. This person shall coordinate mitigation efforts as required by this Ordinance.

2. The facility owner and operator shall respond to the public's inquiries and complaints within five (5) business days.

### Section 829. INDIVIDUAL WIND TURBINES

Where permitted as accessory uses, individual wind turbines, which produce energy solely for the property upon which the turbine is located, shall comply with the following:

A. The energy produced by the turbine shall be only for the primary structure or accessory uses on the premises with excess energy supplied to the energy grid if approved by the utility.

B. The height shall not exceed one hundred twenty (120) feet at its highest point in the A-1 Rural District when the turbine serves agricultural purposes, two hundred (200) feet in the A-2 Agrarian and all industrial districts and forty (40) feet in

the residentially and commercially zoned districts and in the A-1 Rural District when the turbine serves a residence, all as measured from the ground surface.

C. Setback from any structure shall be no less than 130% of the height of the turbine as measured from the highest point that the turbine blade reaches.

D. Setback from any property boundary shall not be less than one and one-half times the distance from the base of the tower foundation to the highest point the turbine blade reaches.

E. To prevent unauthorized climbing, climbing pegs shall be removed from the lower ten (10) feet of the tower or ladder access shall be restricted.

F. A "Danger, High Voltage" sign shall be installed where it is clearly visible by persons standing near the tower base.

G. An individual wind system that has reached the end of its useful life shall be removed within one hundred eighty (180) days of such determination. The individual wind system is considered to have reached the end of its useful life when it has been inoperable for six (6) consecutive months.

H. The fee for a zoning permit for an individual wind system shall follow the existing fee structure for permits required of other accessory structures in the zoning district in which the structure is to be located.

I. No other uses of the tower shall be permitted, including antennas.

## Section 830. **OIL AND GAS INDUSTRY COMPRESSORS**

### A. Definitions

1. Natural Gas Compressor Station: A facility designed and constructed to compress natural gas that originates from an oil and gas well or collection of such wells operating as a midstream facility for delivery of oil and gas to a transmission pipeline, distribution pipeline, natural gas processing plant, or underground storage field, including one or more natural gas compressors, associated buildings, pipes, valves, tanks and other equipment.

2. Natural Gas Processing Plant: A facility designed and constructed to remove materials such as ethane, propane, butane and other constituents or similar substances from natural gas to allow such natural gas to be of such quality as is required or appropriate for transmission or distribution to commercial markets, but not

including facilities or equipment that is designed and constructed primarily to remove water, water vapor, oil or naturally occurring liquids from natural gas, which includes “dew point control facilities.”

3. Protected Structures: Any occupied residence, commercial business, school, religious institution or other public building located within 1,500 feet of a natural gas compressor station that may be impacted by noise, emissions, light or other negative attributes not limited to natural gas compressor stations and associated activities as defined herein.

#### B. Proposed Use

The proposed use should be harmonious with and in accordance with the general objectives and with any specific objective of the township’s Comprehensive Plan unless said objectives are in conflict with any local, state or federal law, ordinance or regulation. The proposed use must meet the following conditions:

1. will be designed, constructed, operated and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and will not change the essential character of the same area.
2. will not be hazardous or disturbing to existing neighboring uses.
3. will be served adequately by essential facilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and sewer.
4. will not create excessive additional requirements at public expense for public facilities and services and will not be detrimental to the economic welfare of the community.
5. will not involve uses, activities, processes, materials, equipment and conditions of operation that will be detrimental to any persons, property, or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare or odors.
6. will have vehicular approaches to the property which shall be designed so as not to create interference with traffic on surrounding public thoroughfares.
7. will not result in the destruction, loss or damage of a natural, scenic, or historic feature of significant importance.

C. Application Review and Approval Procedure

1. An application fee in the amount to be set from time to time by the Board of Supervisors shall be paid by the operator/applicant for the purposes of payment for expenses incurred or to be incurred by the township for administration of the application. Fees may be adjusted by the Township Board of Supervisors from time to time by resolution. To the extent that the same is not otherwise included or provided, copies of applications for permits from the Commonwealth of Pennsylvania or other governmental units related to the proposed natural gas compressor station shall be submitted to the township at the time the application for conditional use is submitted to the township.

2. The operator/applicant of a filed application shall submit a Preparedness, Prevention and Contingency ("PPC") Plan at time of filing such application for review and approval by the township engineer.

D. The natural gas compressor station construction shall comply with the Pennsylvania Uniform Construction Code, as amended.

E. Except in an emergency, no outdoor paging systems, including telephonic ring tones, shall be used on-site as a means of communication on the site.

F. Operator/applicant shall provide training of Fairview Township first responders and site orientation prior to the issuance of Certificate of Occupancy. Training shall be at the sole cost and expense of the operator/applicant.

G. The applicant shall provide warning/site identification signs posted at the entrance to the site which shall include the following:

1. Operator/ applicant name.
2. Unit or site name.
3. Township assigned address.
4. Emergency contact phone number.
5. Hazardous materials on site.

H. The minimum setback shall be one thousand two hundred (1,200) feet from adjacent property lines and from any structure not part of the facility.

I. The design standards shall include the following:

1. Compressors and other power driven equipment shall utilize electric motors rather than internal combustion engines. No electric power shall be generated on the site, excepting portable electric generation equipment which shall be permitted only when equipment is located within a completely enclosed building.

2. Compressors shall be limited to five (5) electric powered compressors located within a completely enclosed building. One (1) internal combustion engine may be utilized as a back-up, but only through a variance from the Zoning Hearing Board. During the periods of operations, doors, windows and similar apertures shall remain closed to ensure maximum noise suppression.

3. The location and design of structures and site improvements shall be integrated with the natural color, form and texture of the surrounding area. The base of the floor in the structure housing the compressor engines must be of concrete.

#### J. Site access

1. Beginning with its intersection with a public street, any ingress or egress point for the development or facility shall be paved for the first fifty (50) feet and improved with limestone or other material to the entrance of the facility in a manner that no water, sediment or debris will be carried onto any public street, as more specifically prescribed below. If any amount of mud, dirt or other debris is carried onto public or private rights-of-way from the natural gas compressor station site, the operator shall immediately clean the roads and implement a remedial plan as directed by the township to keep the streets continuously clean. The first fifty (50) feet from the existing edge of pavement extending into the site shall consist of compacted sub grade PennDOT Class 4 Geotextile Fabric comprised of 8" AASHTO #1 Crushed Aggregate Base Course, 2" PennDOT 2A Aggregate and 6" Superpave 25 mm Binder Course.

2. The remainder of the driveway to the facility shall be constructed with 8" of AASHTO #1 Crushed Aggregate Base Course and 2" of PennDOT 2A Aggregate.

3. Ingress and egress points for all public and private driveways or roadways shall be located and improved.

4. The development or facility shall meet Pennsylvania Code 67 Chapter 441 "Access to and Occupancy of Highways by Driveway and Local Roads," PennDOT Design Manual 2 and Fairview Township Code, Chapter 181 (Ordinance 98-16 "Driveways").

5. The development or facility shall ensure adequate capacity for existing and projected traffic volume.

6. The development or facility shall provide efficient movement of traffic, including appropriate turning radii and transition grade.

7. The development or facility shall minimize hazards to highway users and adjacent property and human activity.

#### K. Equipment

1. The installation of condensate and salt water tanks shall not exceed the height and area limitation of the zoning district and shall be provided with containment devices as approved by the township.

2. An approved shroud shall be installed over the flare at the site.

3. Prior to township approval, a baseline environmental study shall be conducted by an approved person or firm for air and noise quality and emissions.

4. Noise monitoring sensors shall be installed at the property lines of a protected structure to periodically measure noise levels and sound levels at a protected structure.

5. Air monitoring sensors shall be installed at the property lines of a protected structure to evaluate air quality, pollution and emissions.

6. Vapor recovery units, vapor destruction units or the best technology available must be placed on all condensate tanks at the compressor station.

L. Operator/applicant shall conduct ambient studies of air, noise, surface water and groundwater in and around the property and submit the same as part of the Conditional Use Application process

M. Operator/applicant shall utilize the most current technology available for sound mitigation and vibration at the site.

#### N. Spill Containment

1. Spill containment shall be provided and designed by a registered design professional of the Commonwealth of Pennsylvania.

2. Containment shall be provided for indoor facilities.

3. Containment shall be provided for all outdoor storage, including stationary vessel to vehicular or portable vessels for transport off site.

O. In the event of an emergency, including but not limited to product loss (liquid, gaseous or solid), regardless of quantity of material involved or cause, such as equipment malfunction, fire or explosion, or whether the incident results in injury, fatalities, property damage or any other significant result, the operator/applicant shall immediately notify the Erie County 911 Center, and copies of such incident reports shall be furnished to the township.

P. Video surveillance monitoring equipment shall be installed at the site for security purposes.

Q. Property and outdoor lighting shall comply with the Fairview Township Subdivision and Land Development regulations. Site lighting shall be turned off at night other than emergency lighting and/or lights that will be activated by motion detectors.

R. If Fairview Township reasonably believes the citizens of Fairview Township would be subjected to harmful byproducts from the proposed compressor station that may place residents in immediate danger, the Board of Supervisors reserve the right to immediately request that the operator/applicant cease operation until the situation is remedied to Township's satisfaction.

S. In the event of an emergency, including but not limited to product loss (liquid, gaseous or solid) regardless of quantity of material involved or cause, such as equipment malfunction, fire, or explosion, or whether the incident results in injury, fatalities, property damage or any other significant result, the operator/applicant shall immediately notify the Erie County 911 Center and copies of reports shall be provided to the township within forty-eight (48) hours following such incident.

## ARTICLE IX

### NON-CONFORMING USES

#### Section 900 INTENT AND PURPOSE

If, within the zoning districts established by a prior zoning ordinance, this Ordinance, or due to amendments that may later be adopted, there exist lots, structures, uses or signs which were lawful before regulations first enacted but which would be prohibited, regulated or restricted under the terms of this Ordinance, ordinances restated by this Ordinance and/or future amendments of this Ordinance, it is the intent of this Ordinance to permit these nonconformities until they are abandoned or removed, except as specifically designated to the contrary in this Ordinance.

#### Section 901 ABANDONMENT

A non-conforming use of a building or land which has been abandoned shall not thereafter be returned to such a non-conforming use. A non-conforming use shall be considered abandoned when one or more of the following conditions exist:

- A. When the intent of the owner to discontinue the use is apparent.
- B. When the characteristic equipment and furnishings of the non-conforming use have been removed from the premises and have not been replaced by similar equipment within 90 days of the equipment removal, unless other facts show an intention to resume the non-conforming use.
- C. When the non-conforming use has been discontinued for a period of six months.
- D. When the non-conforming use has been replaced by a conforming use.
- E. When the non-conforming use has been changed to another use under approval of the Zoning Hearing Board.
- F. When a non-conforming lot with a non-conforming use on the lot has been reduced to a size smaller than required in a zoning district where such lot or use is permitted, no new non-conforming lots may be created by the subdivision of property.

**Section 902                    CHANGES**

A non-conforming building, structure or use may be changed to another non-conforming use of the same type in a zoning district as a special exception by the Zoning Hearing Board subject to the following provisions:

A.     Access to the property is permitted by Fairview Township or the PA Department of Transportation with an approved Highway Occupancy permit.

B.     Property and outdoor lighting shall comply with the Fairview Township Subdivision and Land Development regulations.

C.     The hours of operation of a business shall be reasonable and limited by the Zoning Hearing Board.

D.     The property shall comply with the Fairview Township Stormwater Ordinance.

**Section 903                    CONSTRUCTION APPROVED PRIOR TO LEGAL ENACTMENT OF THIS ORDINANCE**

Nothing herein contained shall require any change in plans, construction or designated use of a building or structure for which a zoning permit has been issued or the construction of which shall have been diligently pursued within two months of the date of such permit, and the ground floor framework of which shall have been completed within four months of the date of the permit, and which entire building shall have been completed according to such plans as filed within one year from the date of enactment of this Ordinance.

**Section 904                    DISTRICT CHANGES**

Whenever the boundaries of a zoning district shall be changed so as to transfer an area from one district to another district of a different classification, the requirements of the original zoning district shall apply to any non-conforming uses or structures existing therein.

**Section 905                    EXPANSION OF A NON-CONFORMING USE**

A non-conforming use may be expanded as a special exception upon approval of the Zoning Hearing Board, subject to the following provisions:

A. The expansion becomes an attached part of the main structure and does not utilize additional or adjoining land area other than the original parcel.

B. The expansion does not encroach upon the yard requirements of the District in which the non-conforming use is presently located.

C. The expansion is for the purpose of expanding only the non-conforming use on the original parcel in existence at the time of the legal acceptance of this Ordinance or amendment thereto. Extension of a lawful use to any portion of a non-conforming building or structure which existed prior to the enactment of this Ordinance shall not be deemed the extension of such non-conforming use.

D. A second conforming principal use may be added to a non-conforming use when meeting all zoning, subdivision, land development and other local, county and state requirements.

#### **Section 906                   REGISTRATION**

All non-conforming uses existing at the time of the enactment of this Ordinance or amendments thereto shall be registered and maintained for public record in the office of the zoning officer.

#### **Section 907                   RESTORATION**

Nothing in this Ordinance shall prevent the required reconstruction, repair, rebuilding and continued use of any non-conforming building or structure as a result of fire, collapse, explosion or act of God subsequent to the date of enactment of this Ordinance provided said work to the destroyed or damaged building is initiated within one year of the date of damage. To be entitled to the benefits of this provision, written notice to the Township of the event causing the damage shall be provided within fifteen (15) days of the event.

#### **Section 908                   UNLAWFUL USE NOT AUTHORIZED**

Nothing in this Ordinance shall be interpreted as authorization for or approval of the continuance of the illegal use of a non-conforming structure or premises in violation of township regulations in existence at the time of the effective date of this Ordinance.

**Section 909                    UNSAFE STRUCTURE**

Nothing in this Ordinance shall prevent the strengthening or restoring to a safe condition of any portion of a building or structure declared unsafe by a proper authority. Any such work shall be performed in a manner consistent with the requirements of the Pennsylvania Construction Code Act.

## ARTICLE X

### ADMINISTRATION

#### Section 1000 ADMINISTRATION

The zoning administrator and such assistants and subordinates as are designated by the Board of Supervisors shall have such duties and powers as are necessary to administer and enforce this Ordinance, including but not limited to the following, which shall apply to the zoning administrator and all other authorized employees:

A. Such officials shall receive and act upon applications for zoning permits to authorize the erection, reconstruction, alteration or repair of and additions to buildings and structures, use certificates, construction of foundations and other matters addressed in this Ordinance, and to enforce compliance with the provisions of this Ordinance.

B. Such officials shall receive and refer to the Zoning Hearing Board all applications for variance, use on special exception and other matters within the jurisdiction of said board.

C. Such officials shall receive and refer to the Planning Commission and Board of Supervisors all petitions requesting rezoning of properties.

D. Such officials shall refer to the Board of Supervisors such other applications or petitions as are directed to the Board of Supervisors for action.

E. Such officials may seek such expert opinions as the officials deem necessary to report upon unusual technical issues that arise.

F. Such officials shall be responsible for enforcement of this Ordinance.

G. Such officials shall approve and issue a permit or certificate only when all requirements for its issuance have been met.

H. Where all requirements for a permit or certificate have not been met, such officials shall in writing deny such application, with the written denial stating the reason(s) for such denial.

I. Where a permit or certificate has been issued in reliance upon information submitted by the applicant that is later found to be materially untrue, or has been issued improvidently, such officials shall have authority to revoke such issued permit or certificate. Such revocation shall be in writing and, shall state the reason(s) for

revocation, and shall be sent to the person to whom the permit or certificate was issued via U.S. certified mail.

J. Such officials shall make such investigations as they deem necessary or appropriate in performance of their duties and shall carry proper identification should they inspect buildings or premises in the performance of their duties.

K. Such officials shall issue all notices or orders necessary to act upon applications and ensure compliance with this Ordinance.

L. Such officials shall issue all stop work orders which may be necessary in event of violations of this Ordinance or of any issued permit or certificate.

M. Such officials are authorized to register non-conforming lots, structures and uses.

N. Such officials shall communicate with the building code official retained by the Township to administer and enforce the Uniform Construction Code, and shall receive and maintain on file reports, permits, certificates and other documents received from said building code official. Communications shall include all those necessary or appropriate to proper administration of the ordinances, including but not limited to notices of violation of the respective regulations and assistance in enforcement proceedings.

O. Such officials shall issue all notices and pursue all actions necessary to enforce this Ordinance and permits or certificates as issued.

## **SECTION 1001 ZONING PERMIT**

### **A. Permit Requirement**

An application for a zoning permit shall be submitted to the zoning administrator for the following activities, and it shall be unlawful and a violation of this Ordinance for any of the following activities to commence without a zoning permit first being issued in accordance with this Article:

1. Construction or installation of any roofed structure unless otherwise exempted under Section 1001 B 1 through 12.

2. Construction or installation of any structure requiring a permanent foundation under the Pennsylvania Construction Code or the Fairview Township Zoning Ordinance.

3. Construction or installation of an addition or alteration to a building that creates floor space including decks and porches.
4. Demolition of a residential dwelling, commercial or industrial building or structure.
5. Making or effecting a change of a previously authorized zoning use of vacant land or any building or structure.
6. Construction or installation of swimming pools, spas or hot tubs with a holding capacity of over thirty-six inches (36") of water in depth.
7. Construction or alteration of signs except as exempted in Section 1001 B 11.
8. Construction of any six foot six inch (6' 6") or higher fence and all fencing required for swimming pools, spas or hot tubs.
9. Any tower or structure with a height such that it exceeds the maximum building height for that zoning district.
10. Any tower or structure that requires a permit by any federal, state or local statute or regulation.

B. Permit Exemptions

No zoning permit shall be required for the following (however, a permit may be required under the Pennsylvania Construction Code or other ordinance):

1. A roofed building or structure less than 145 square feet of floor area and a height of less than 16 feet.
2. Exterior remodeling or improvement of existing buildings that does not alter the basic structure, create additional lot area coverage or change the use of the parcel or building.
3. Steps not exceeding 32 square feet.
4. Stoops not exceeding 32 square feet.
5. Chimneys not exceeding 32 square feet.
6. Handicap ramps (not including decks or turning radii).

7. Overhangs, provided they do not extend more than twenty-four (24) inches beyond the outside wall.

8. Ground level pads and sidewalks.

9. Mailboxes.

10. Temporary structures; i.e., those structures consisting of materials of poles, fabric and vinyl, not exceeding three hundred twenty (320) square feet and that have no foundation or footing and which are removed when the designated time period, activity or use for which it was erected has ceased, but in no event to exceed one hundred eighty (180) calendar days in a calendar year from when first erected. A temporary structure of any size erected for less than one (1) calendar week in any calendar year shall not require any zoning permit. Examples of temporary structures are carpools, picnic shelters and rollout portable awnings. Temporary structures shall still meet the setback requirements of the Zoning Ordinance for the district in which the temporary structure is located.

11. Political signs and real estate signs promoting the sale, lease, or development of property, agricultural signs, non-commercial signs, permanent signs under two (2) square feet, temporary commercial or noncommercial signs for seasonal events or sales. For purposes of this subsection 11, temporary shall mean not more than six (6) months in any calendar year.

12. Roof mounted cupolas, roof mounted wind turbines, roof mounted solar panels and roof mounted antennas.

#### C. Form of Application

The application for a zoning permit shall be submitted in written form and must be accompanied by the fee as required under resolution(s) adopted by the Board of Supervisors. An applicant shall provide all documents and information required under this or any other Fairview Township ordinance, including but not limited to the Stormwater Ordinance, Floodplain Ordinance, Sign Ordinance, Construction Code Ordinance, Driveway Ordinance, Coastal and Bluff Setback Ordinance, Airport Zoning Regulation Ordinance, Subdivision Ordinance and Land Development Ordinance.

#### D. By Whom Application Made

Application for a zoning permit shall be made by the owner, the lessee, or authorized agent of either with written authorization from the owner to make application, or by the building contractor or design professional employed or retained

by such owner or lessee in connection with such work. The following information shall be provided:

1. The full name and address of the owner and applicant.
2. If the application is made by a person other than the owner in fee of the property, it shall be accompanied by an affidavit signed by the owner to the effect that the proposed work is authorized by the owner in fee, that the person making such application is authorized to do so on behalf of the owner, and that the owner shall be bound by all representations made on the application and by all regulations governing issuance of any permit(s).

#### E. Application Requirements

In addition to other requirements imposed under this Article or other ordinance of the township, all applications for a zoning permit shall include the following:

1. Description of Work - a general description of the proposed work, the location of the proposed work, the occupancy prior to and after the proposed work of all the building and/or structure and of all portions of the site or lot not covered by the building or structure and such additional information as is required in this Ordinance.
2. Proper Zoning - The applicant shall establish that the land is zoned properly and may be used as proposed, and that the proposal complies with all regulations of this Ordinance. No permit shall be issued unless the use proposed is expressly permitted in the Zoning Ordinance and the proposal complies with all applicable regulations absent an adjudication of the Zoning Hearing Board authorizing such use and construction.
3. Site Plan - An application for a zoning permit for any building or structure shall be accompanied by a site plan showing to scale the actual dimensions of each lot to be built upon, the size and location of all new construction and all existing buildings or structures on the site, distances from lot lines, established street grades and proposed finished grades, together with such additional information as may be mandated by law. If the zoning officer determines that the requirements of this section can be met without the requirement of an accurate boundary line survey, none shall be required.
  - (a) An application for a zoning permit proposing construction, alteration, reconstruction or other action as to a one-family or two-family residential dwelling shall set forth a plot plan showing the property lines, the location of all new or proposed construction and all existing buildings or structures on the site, distances from lot lines and such additional information as may be mandated by law.

(b) In cases of proposed construction activity other than one- and two-family residential dwellings, data from approved land development plans or plan amendments may be incorporated in the permit application in lieu of a new site plan.

(c) In cases of proposed construction activity involving additions or renovations to buildings that do not require a land development plan or amendment, the zoning administrator shall be authorized to require a plot plan generally required for one- and two-family residential dwellings when deemed necessary under the circumstances.

(d) Where public sewer is not available, the site plan shall indicate the location of the private sewage disposal system to serve the property.

(e) Where public water is not available, the site plan shall indicate the location of the private water supply to serve the property.

(f) In the case of demolition, the site plan shall show all construction to be demolished and the location and size of all existing buildings and structures that are to remain on the site or lot after demolition.

(g) The site plan as set forth in the zoning permit as issued shall be the same as that submitted and approved for construction or other construction permit under Ordinance 2004-2, as may be amended. No deviations from the site plan included in the approved zoning permit shall be allowed without prior written approval by the zoning administrator.

(h) Construction and/or alterations as authorized by an approved permit shall begin within the period of 90 days of the date of issuance; otherwise the permit is null and void. An approved zoning permit shall be valid for a period of one year with a one year renewal, unless the project has been phased with an approved land development plan.

4. Stormwater Management - No zoning permit shall be issued until the applicant complies with all requirements of the Fairview storm water management ordinances which may include a grading plan submittal, NPDES permit or a soil erosion and sedimentation permit.

5. Access to state highways and township streets - No permit shall be issued until the applicant submits to the zoning administrator a highway occupancy permit issued by the Pennsylvania Department of Transportation authorizing the access as proposed. No permit proposing access to a township street by a use greater than minimum traffic volume shall be issued until such proposed access has been authorized

by the Board of Supervisors in its approval of a subdivision plan or land development plan or otherwise.

6. Approvals Required - No zoning permit or use certificate shall be issued unless the applicant submits with the application written confirmation of all required approvals of township and other governmental agencies prior to such construction and/or use. These may include but are not limited to the following:

(a) When a building or structure is to be served by public sewer, provide a copy of the issued permit to connect to the sewer system.

(b) When a building or structure is to be served by on-lot septic, provide a copy of the Erie County Department of Health septic approval for the proposed building, structure and/or use.

(c) When a building or structure is to be served by public water and the water mains do not abut the premises, provide written confirmation by the water authority that it is prepared to extend such mains and that the applicant has furnished all required applications and fees therefore.

(d) Subdivision and/or land development plan has been approved.

(e) A copy of the Zoning Hearing Board's authorization for the issuance of such permit, if applicable.

7. Service Connections (Demolition) - Before a building or structure is demolished or removed, the owner or owner's agent shall notify all utilities having service connections within the structure. A zoning permit authorizing the demolition or removal of a building or structure shall require that prior to issuance of a demolition permit, the owner shall submit to the Pennsylvania Construction Code building code official a certification that all service utilities and adjacent property owners have been notified of the proposed demolition and that service connections have been removed.

8. Authorization for Inspection - The submission of an application for a zoning permit shall authorize the zoning officer and/or the zoning officer's assistant, and where deemed necessary by the zoning officer, the township engineer, to inspect the property in the area where the project is proposed to determine that all necessary requirements of the township ordinances will be met if the permit is issued. The township and the applicant shall set the date and approximate time of the inspection.

#### F. Action on Permit Application

Following receipt of an application for permit deemed complete under this Section 1001, unless waived by the applicant, the zoning officer shall issue a permit within ten (10) business days following said receipt. Should an application be determined to be incomplete, the zoning officer shall deny the permit and issue a notice of deficiency to the applicant no later than ten (10) business days following the determination of deficiency.

#### G. Conditions on Permits

1. A zoning permit shall authorize only the use or construction specified on the permit and application - and no other.

2. A zoning permit shall not be issued until the fees prescribed therefore have been paid.

3. No zoning permit or use certificate shall be issued until all information required for its issuance has been submitted in proper form to the zoning administrator.

4. All work shall conform to the approved application for which the zoning permit has been issued and any approved amendments to the approved application or permit.

5. All new work shall be located strictly in accordance with the approved site plan or plot plan.

6. If the land subject to the proposed building, structure, renovation and/or addition is located within a subdivision or land development previously approved by the Board of Supervisors, the owner(s) shall be responsible for ensuring that all grading, stormwater management, easements, conditions and other terms imposed on the approved plan are preserved and/or complied with during and after construction. A new grading plan shall be required whenever a revision to the approved grading plan is proposed.

7. If the applicant proposes to construct sidewalks and/or a driveway or other street access, the owner shall be responsible for ensuring that such sidewalks, driveway(s) and other street access are constructed in full conformity with township specifications.

8. A zoning permit shall be a license to proceed with the work and shall not be construed as authority to violate, cancel or set aside any of the provisions of

this Ordinance, the Uniform Construction Code Ordinance or any other ordinance or regulation governing the work, except as specifically stipulated by legally granted variance as described in the application.

9. No zoning permit shall be issued to any applicant or owner of the parcel in which the owner has an existing, finally determined township ordinance violation related to the same project or is then in a finally determined violation of the terms of a foundation permit, zoning permit, Construction Code permit, development plan approval or agreement, use certificate, Construction Code occupancy certificate or other governmental approval related to the same project.

#### H. Amendments to Applications

1. Amendments to a plan, application or other records accompanying the same shall be filed at any time before completion of the work for which the zoning permit is sought or issued.

2. Such amendment(s), if approved and accompanied by any required fee, shall be deemed part of the original application and shall be filed therewith.

### **Section 1002 ZONING OCCUPANCY PERMIT**

When required, completion of the authorized new construction, alteration, remodeling, change of use of building or land under the provisions of a zoning permit shall not be occupied until a zoning occupancy permit has been issued by the zoning officer. Written request to the zoning officer shall be processed within one week of receipt of the request of the proposed zoning occupancy permit provided the use is in conformity with the provisions of this Ordinance and other applicable ordinances. Zoning officer refusal to issue a zoning occupancy permit shall include a written statement to the applicant containing reasons for such denial.

Zoning occupancy permits are required for the following:

1. Occupancy of a new building.
2. Occupancy and use of a building hereafter moved or altered so as to require a zoning permit.
3. Change in the use of an existing building other than to a use of the same type.
4. Occupancy and use of vacant land.

5. Change in the use of land except to another use of the same type.
6. Any change in the use of a non-conforming use.

Zoning occupancy permits shall state that the building or the proposed use of a building or land complies with all provisions of law and of this Ordinance and all other ordinances of the municipality. They are deemed to authorize and are required for both initial and continued occupancy and use of the building and land so long as such building and use is in full conformity with the provisions of the Ordinance.

### **Section 1003            TEMPORARY ZONING PERMIT**

A. Temporary permits are required where it is intended that a mobile, temporary or seasonal use be located anywhere within the township for a very short period of time.

B. Temporary zoning permits are required for and are limited to the following uses and time periods:

1. Selling of Christmas trees in business districts or at churches, schools, clubs and lodges, a maximum of four weeks.
2. Carnival, circus or street fairs, a maximum of one week.
3. Mobile amusements and lighting equipment for promotion, advertisement and grand openings, a maximum of two weeks.
4. Camping equipment and recreational vehicles in Residential Districts as provided elsewhere in this Ordinance.
5. Business and construction trailers are permitted as a special exception by the Zoning Hearing Board with the following restrictions:
  - a. Shall be allowed for not more than 90 days.
  - b. Shall not be placed in the road right of way, nor block any public or private access or access sight visibility.
  - c. May be renewed for not more than one additional 90 day period.

6. An emergency trailer may be permitted for alternate housing due to fire, collapse, explosion or act of God for not more than one year. The temporary permit may be extended by the Planning Commission for a period of time upon their recommendation.

C. No temporary zoning permit shall be issued for any temporary use where said use would violate any of the provisions of this Ordinance.

D. Temporary storage facilities will be permitted as allowed and defined in Section 810 of this Ordinance.

#### **Section 1004 FEES**

Fees for zoning, temporary and zoning occupancy permits shall be in accordance with the fees as set from time to time in a fee schedule adopted by the Board of Supervisors.

## ARTICLE XI

### ZONING HEARING BOARD

#### Section 1100 CREATION AND APPOINTMENT

A. The Fairview Township Zoning Hearing Board is hereby created. The membership of the board shall consist of five residents of the township appointed by the Board of Supervisors. Their terms of office shall be three years and shall be so fixed that the term of office of one member shall expire each year. The Zoning Hearing Board shall promptly notify the Board of Supervisors of any vacancies which occur.

B. Appointments to fill vacancies shall be only for the unexpired portion of the term. Members of the Zoning Hearing Board shall hold no other office in the township.

#### Section 1101 REMOVAL OF MEMBERS

Any Zoning Hearing Board member may be removed for malfeasance, misfeasance or nonfeasance in office or for other just cause by a majority vote of the Board of Supervisors which appointed the member, taken after the member has received 15 days advance notice of the intent to take such a vote. A hearing shall be held in connection with the vote if the member shall request it in writing.

#### Section 1102 ORGANIZATION OF ZONING HEARING BOARD

A. The Zoning Hearing Board shall elect from its own membership its officers, who shall serve annual terms as such and may succeed themselves. For the conduct of any hearing and the taking of any action, a quorum shall be not less than a majority of all 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 Zoning Hearing Board as provided in the Pennsylvania Municipalities Planning Code.

B. If, by reason of absence or disqualification of a member, a quorum is not reached, the chairman of the 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 alternate 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 Zoning Hearing Board may make, alter and rescind rules and forms for its procedure, consistent with ordinances of Fairview Township and the laws of the Commonwealth of Pennsylvania. The Zoning Hearing Board shall keep full public records of its business, which records shall be the property of the municipality. The board shall submit a report of its activities to the Board of Supervisors once a year.

### **Section 1103 POWERS AND DUTIES**

A. The Zoning Hearing Board shall hear and decide appeals from any order, requirement, decision or determination made by the zoning officer in the administration of this Ordinance.

B. The Zoning Hearing Board shall hear and decide all matters referred to it when these matters fall under the jurisdiction of this Ordinance.

C. The Zoning Hearing Board may issue special permits for any of the uses requiring such permits under the terms of this Ordinance. In granting special permits, the Board shall prescribe the basis upon which the permit was issued and the conditions deemed necessary or desirable for the protection of the public interest.

1. Variances and/or special exceptions granted by the Zoning Hearing Board shall become invalid if a zoning permit is not issued and improvements are not started within 90 days from the date the variance and/or special exception has been granted.

2. No special permit shall be granted by the Zoning Hearing Board unless it finds that the use for which such permit is sought will not be injurious to the neighborhood or otherwise detrimental to the public welfare and will be in harmony with the general purpose of this Ordinance.

D. The Zoning Hearing Board may adapt or vary the strict application of any requirements of this Ordinance in the case of irregular, narrow, shallow or steep lots, or other physical conditions whereby such strict application would result in practical difficulty or unnecessary hardship that would deprive the owner of the reasonable use of the land or building involved but in no other case.

1. No such variance in the strict application of any provision of this Ordinance shall be granted by the Zoning Hearing Board unless it finds the conditions

stated in Section 1103 D above are such that the strict application of this Ordinance would deprive the applicant of the reasonable use of land or buildings.

2. The granting of any variance shall be in harmony with the general purpose and intent of this Ordinance and the Comprehensive Plan, and shall not be injurious to the neighborhood or otherwise detrimental to the public welfare and shall be the minimum necessary to afford relief.

3. The board must determine that any unnecessary hardship has not been created by the appellant.

4. Requests for variance to the strict application of the Conservation District shall be granted in accordance with the following:

a. No variance shall be granted for any construction, development, use, or activity within any floodway area that would cause any increase in the 100 Year Flood elevation or that would cause any increase in the rate or amount of erosion occurring within a coastal and bluff recession hazard area.

b. Whenever a variance is granted, the Zoning Hearing Board shall notify the applicant in writing of the following:

(1) The granting of the variance may result in increased premium rates for flood insurance.

(2) Such variances may increase the risks to life and property.

c. In reviewing any request for a variance, the Zoning Hearing Board shall consider, but not be limited to, the following:

(1) That the granting of the variance will not result in any unacceptable or prohibited increase in flood heights or erosion, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on, or victimization of the public, or conflict with any other applicable local or state ordinances and regulations.

(2) The structure shall be designed and constructed to be movable. The construction activities shall meet the minimum erosion and sedimentation control practices established by PADEP Rules and Regulations, Pa. Code, Chapter 102, and reflect guidance contained in the Erosion and Sedimentation Control Guide of Erie County and shall comply with the requirements contained in the Fairview Township Stormwater Management Ordinance. All construction materials, including

foundations, shall be removed and disposed of in accordance with the Pennsylvania Solid Waste Management Act, PADEP Rules and Regulations, promulgated thereunder as a part of the relocating structures. Access to and from the structure shall be of sufficient width and acceptable grade to allow for moving the structure.

d. A parcel established prior to coastal and bluff recession hazard area designation does not have adequate depth considering the minimum bluff setback requirements to provide for any permitted use of the land.

e. 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.

f. A copy of the PADEP permit and requirements from the Bureau of Dams and Waterway Management shall be filed with the Zoning Hearing Board.

5. Notwithstanding any of the flood hazard requirements, all structures shall be designed and constructed so as to have the capability of resisting the hydrostatic and hydrodynamic loads and pressures, and effects of buoyancy of the 100 Year Flood, and meet all design and construction provisions for any flood area.

6. When reviewing applications for special exceptions and variances and development located within flood plain or coastal hazard areas, the Zoning Hearing Board may refer any application and accompanying documentation to the Fairview Township engineer or agency for technical assistance in evaluating the proposal.

#### **Section 1104           PROCEDURE FOR APPEAL**

The procedure of the Zoning Hearing Board shall be governed by the provisions of the Pennsylvania Municipalities Planning Code and such rules, not inconsistent therewith, as the Board may adopt. In general, the procedure for appeal from action of the zoning officer shall be as follows:

A. Any appeal for exemption from the requirements of the Zoning Ordinance shall be filed with the Zoning Hearing Board, with a notice of appeal specifying the grounds for making the appeal. The zoning officer shall forthwith transmit to the board all of the documentary material constituting the record upon which the action appealed was taken.

B. The appellant shall, at the time of filing his appeal, pay the township a fee as determined by the Board of Supervisors to defray or help defray the cost of the required advertising, which fee shall not be refunded even though the application may be disapproved by the board.

C. Each appeal shall be tried on its merits at a public hearing. Notice of such appeal shall be given to the applicant and zoning officer. The appeal shall be published once each week for two successive weeks in a newspaper of general circulation in the municipality. Such notice shall state the time and place of the hearing and particular nature of the matter to be considered at the hearing. The first publication shall be not more than 30 days or less than seven days from the date of the hearing. In addition to the notice provided herein, notice of said hearing shall be conspicuously posted on the affected tract of land at least one week prior to the hearing. The board shall give any additional notice required by any other ordinance to all parties of interest and shall adjourn any hearing for the purpose of giving such further notice.

D. The Planning Commission shall furnish all pertinent narrative material, maps, charts and other data available from township files and relative to the problem for reference by all concerned. The board may adjourn any hearing for the purpose of reviewing such data as may be pertinent to the problem and may request interpretations of said data by a representative of the Planning Commission.

E. The board shall decide each appeal in the manner provided by the Pennsylvania Municipalities Planning Code, and notice thereof shall be given to all interested parties. The board's decision shall be immediately filed in its office and be a public record. In the exercise of its functions upon such appeals or upon exceptions, the board may, in conformity with law, reverse or affirm wholly or partly, or modify the order, requirement, decision or determination as in its opinion ought to be made.

F. Time Limitations

1. No person shall be allowed to file any proceeding with the Zoning Hearing Board later than thirty (30) days after an application for development, preliminary or final, has been approved by an appropriate Fairview Township officer, agency or body if such proceeding is designed to secure reversal or to limit the approval in any manner unless such person alleges and proves that he had no notice, knowledge, or reason to believe that such approval had been given. If such person has succeeded to his interest after such approval, then he shall be bound by the knowledge of his predecessor in interest. The failure of anyone other than the landowner to appeal an adverse decision on a tentative plan for a Planned Residential Development as set forth in Section 709 of the Pennsylvania Municipalities Planning Code, as reenacted and amended, or an adverse decision by a zoning officer on a challenge to the validity of an ordinance or map pursuant to Section 916.2 of the Pennsylvania Municipalities

Planning Code, as reenacted and amended, shall preclude an appeal from a final approval except in the case where the final submission substantially deviates from the approved tentative approval.

2. All appeals from determinations adverse to the landowners shall be filed by the landowner within thirty (30) days after notice of the determination is issued.

G. Any person aggrieved by any decision of the board or any administrative officer may appeal therefrom within 30 days to the Court of Common Pleas of Erie County, Pennsylvania, as provided by the Pennsylvania Municipalities Planning Code.

**ARTICLE XII**  
**AMENDMENTS**

**Section 1200            PERMITTED CHANGES**

Whenever the public necessity, convenience or general welfare indicates, the Board of Supervisors may, by Ordinance in accordance with applicable laws of the Pennsylvania Municipalities Planning Code, supplement or change the regulations, restrictions, boundaries or classifications of buildings, structures and land, as the same are established by this Ordinance or may hereafter be made a part thereof.

**Section 1201            APPLICATION**

Applications for any amendments to the Zoning Ordinance and/or Zoning Map, shall be submitted to the zoning officer and shall be accompanied by a fee as established by the Board of Supervisors by resolution. Such fee shall not be refundable.

**Section 1202            PROCEDURES**

Before voting on the enactment of an amendment, other than that prepared by the Fairview Township Planning Commission, the following steps shall be taken:

A.     The Board of Supervisors shall submit each such amendment to the Fairview Township Planning Commission and the Erie County Planning Commission at least 30 days prior to the public hearing.

B.     In addition, if the proposed amendment involves a zoning map change, notice of the public hearing shall be conspicuously posted by the zoning officer along the perimeter of the tract to notify interested citizens. The area shall be posted at least seven days prior to the date of the hearing.

C.     If, after any public hearing held upon an amendment there is substantial change or revision to include land previously not affected, the Board of Supervisors shall, at least 10 days prior to enactment, re-advertise a brief summary setting forth provisions in reasonable detail together with a summary of the amendments and hold another public hearing prior to the vote.

D. Proposed amendments shall not be enacted unless notice of proposed enactment is given in the manner set forth in the Pennsylvania Municipalities Planning Code.

**Section 1203            CURATIVE AMENDMENTS**

A landowner who desires to challenge on substantive grounds the validity of a zoning ordinance or map or any provision thereof, which prohibits or restricts the use or development of land in which he has an interest, may submit a curative amendment to the governing body with a written request that his challenge and proposed amendment be heard and decided as provided in the Pennsylvania Municipalities Planning Code.

**ARTICLE XIII**  
**ENFORCEMENT**

**Section 1300            VALIDITY**

Should any section or provision of this Ordinance be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of this Ordinance as a whole or any other part thereof, and the parts of or sections remaining shall remain in effect as though the part or section declared unconstitutional had never been a part thereof.

**Section 1301            INTERPRETATION AND CONFLICT**

The interpretation and application of the provisions of this Ordinance shall be held to be the minimum requirements for the promotion of the health, safety and general welfare of the Township of Fairview. This Ordinance is not intended to interfere with or abrogate or annul other rules, regulations or ordinances of the township provided that where this Ordinance imposes a greater restriction upon the use of buildings or premises or upon the height of a building or requires larger open spaces than are imposed by other such rules, regulations or ordinances of the township, the provisions of this Ordinance shall prevail.

**Section 1302            CAUSES OF ACTION**

In case any building, structure, landscaping or land is, or is proposed to be, erected, constructed, reconstructed, altered, converted, maintained, or used in violation of this Ordinance, such violation shall be subject to the provisions of Section 617 of the Pennsylvania Municipalities Planning Code, 53 P. S. 10617.

**Section 1303            ENFORCEMENT REMEDIES**

Any person, partnership or corporation who or which has violated or permitted the violation of the provisions of this Ordinance shall be subject to the provisions of Section 617.2 of the Pennsylvania Municipalities Planning Code, 53 P.S. 10617.2.

**Section 1304            EFFECTIVE DATE**

This Ordinance shall be in full force and effect from and after the \_\_\_\_ - day of \_\_\_\_\_, 2015.

ENACTED AND ORDAINED into an Ordinance this \_\_\_\_ day of \_\_\_\_\_, 2015.

Attest:

BOARD OF SUPERVISORS OF FAIRVIEW  
TOWNSHIP

\_\_\_\_\_  
Secretary

\_\_\_\_\_  
Supervisor

\_\_\_\_\_  
Supervisor

\_\_\_\_\_  
Supervisor

**ARTICLE XIV**

**REFERENCE ZONING MAP**