

**FOSTER TOWNSHIP
LUZERNE COUNTY
PENNSYLVANIA**

1995 ZONING ORDINANCE

ENACTED FEBRUARY 7, 1995

EFFECTIVE DATE: FEBRUARY 14, 1995

FOSTER TOWNSHIP BOARD OF SUPERVISORS

**PREPARED BY VARALY ASSOCIATES
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ARTICLE 1

GENERAL PROVISIONS

SECTION 101 TITLE

The official title of this Ordinance is: "Foster Township Zoning Ordinance, 1995."

SECTION 102 EFFECTIVE DATE

This Ordinance shall take effect on **FEBRUARY 14, 1995.**

SECTION 103 CONSTRUCTION OF ORDINANCE

The provisions of this Ordinance, as far as they are the same as those of existing ordinances, are intended as a continuation of such ordinance except for those portions of the ordinance which are specifically repealed. The provisions of this Ordinance shall not affect any act done, contract executed or liability incurred prior to its effective date, or effect any suite or prosecution pending or to be instituted, to enforce any right, rule, regulation, or ordinance or against any ordinance enacted under them. All ordinances, resolutions, regulations and rules made pursuant to any ordinance repealed by this Ordinance shall continue in effect as if such ordinance had not been repealed.

SECTION 104 PURPOSE:

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

- A. To promote, protect and facilitate one or more of the following: the public health, safety, morals, general welfare, coordinated and practical community development, proper density of population, emergency management preparedness, airports and national defense facilities, the provisions of adequate light and air, access to incident solar energy, police protection, vehicle parking and loading space, transportation, water, sewage, schools, recreational facilities, public grounds, the provision of a safe, reliable and adequate water supply for domestic, commercial, agricultural or industrial use, and other public requirements; as well as reservation of natural, scenic and historic values in the environment and preservation of forests, wetlands, aquifers and floodplains.

- B. To prevent one or more of the following: overcrowding of land, blight, danger and congestion in travel and transportation, loss of health, life or property from fire, flood, panic or other dangers.
- C. To preserve prime agriculture and farmland considering topography, soil type and classification, and present use.
- D. To provide for the use of land within the municipality for residential housing of various dwelling types encompassing all basic forms of housing, including single-family and two-family dwellings, and a reasonable range of multifamily dwellings in various arrangements, mobile homes and mobile home parks, provided however, that the zoning ordinance shall not be deemed invalid for the failure to provide any other specific dwelling type.
- E. To accommodate reasonable overall community growth, including population and employment growth, and opportunities for development of a variety of residential dwelling types and nonresidential uses.

SECTION 105 COMMUNITY DEVELOPMENT OBJECTIVES

To carry out the defined goals and objectives of the Foster Township Comprehensive Plan, including any adopted updates, revisions and amendments thereto:

SECTION 106 COMPLIANCE

No structure shall be located, erected, constructed, reconstructed, moved, altered, converted, or enlarged, nor shall any structure or land be used or be designed to be used, except in full compliance with all the provisions of this Ordinance and after the lawful issuance of all permits and certificates required by this Ordinance.

SECTION 107 INTERPRETATION AND INTENT

In interpreting and applying the provisions of this Ordinance, it shall be held to be the minimum requirements for the promotion of the health, safety, morals, and general welfare of Foster Township. It is not intended to interfere with or abrogate or annul other rules, regulations, or ordinances of the Foster Township except 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 such other rules, regulations, or ordinances, the provisions of this Ordinance shall control.

SECTION 108 REPEALING PROVISION

All Ordinance, or any parts thereof, which are inconsistent or in conflict with this Ordinance, including the text of the Foster Township Zoning Ordinance of February 4, 1985 and any amendments thereto are hereby repealed.

ENACTED ON THIS 7TH DAY OF FEBRUARY, 1995.

EFFECTIVE DATE OF THIS ORDINANCE: FEBRUARY 14, 1995

FOSTER TOWNSHIP BOARD OF SUPERVISORS


Robert A. Falatko, Chairman


Carol A. Lenahan, Secretary

ARTICLE 2

DEFINITIONS

SECTION 201 APPLICATION AND INTERPRETATION

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

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

SECTION 202 DEFINITION OF TERMS

For the purpose of this Ordinance, the following words, terms, and phrases have the meaning indicated herein:

ABANDONMENT:

To cease or discontinue a use or activity without intent to resume, but excluding temporary or short-term interruptions to a use or activity during periods of remodeling, maintaining, or otherwise improving or rearranging a facility, subject to completion of the work within one year from the issuance of a building permit.

ABUTTING:

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

ACCESS:

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

ACCESSORY STRUCTURE:

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

ACCESSORY USE:

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

ADULT USES:

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

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

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

Specified Anatomical Areas: As used herein, specified anatomical areas means and includes any of the following: (1) less than completely and opaquely covered human

genitals, pubic region, buttocks, anus, or female breasts below a point immediately above the top of the areolae; or (2) human male genitals in a discernibly turgid state, even if completely and opaquely covered.

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

AGRICULTURE:

The use of land for agricultural purposes, including farming, dairying, pasturage, horticulture, floriculture, and animal and poultry husbandry and the necessary accessory uses for farm homes and packing, treating or storing the product; provided, however, that the operation of any accessory uses shall be secondary to that of normal agricultural activities and provided further that the above uses shall not include commercial hog farms, fur farms, fertilizer plants or animal kennels. The keeping of two or more pieces of livestock upon a property, including but not limited to horses, cows, goats, sheep and similar types of animals shall be deemed to constitute an agricultural use.

ALLEY:

A public right-of-way intended and/or used as a secondary means of access to abutting property.

ALTERATION:

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

ALTERATION, STRUCTURAL:

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

AMENDMENT:

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

ANTENNA:

SEE "SATELLITE DISH ANTENNA" and "TOWER".

AUTOMOBILE WRECKING YARD: (SEE ALSO JUNKYARDS)

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

AUTOMOTIVE SALES

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

BASEMENT:

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

BED AND BREAKFAST:

An owner-occupied dwelling containing not more than three (3) bed and breakfast units which are rented on a nightly basis for periods of less than a week. Dining and other facilities shall not be open to the public, but shall be exclusively for the use of the residents and registered guests. Breakfast shall be the only meal served. Such rooms shall not have separate utilities, provisions for cooking or dormitories for sleeping and must be located within the principle structure.

BILLBOARD:

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

BOARDING HOUSE:

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

Dwelling
Motel and/or Hotel
Group Residence

Dwelling Unit
Bed and Breakfast Facility

BUFFER AREA:

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

BUILDING:

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

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

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

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

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

CARPORT:

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

CELLAR:

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

CERTIFICATE OF ZONING COMPLIANCE:

The certificate (sometimes called "occupancy permit") issued by the Zoning Officer after he has inspected any structure, building, sign and/or land or portion thereof for which a

zoning permit was issued in order to determine compliance with the terms of the permit and the zoning ordinance before the structure, building, sign, and or land or portion thereof can be lawfully used and/or occupied.

CHANGE OF USE:

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

CHURCH: (SEE PLACE OF WORSHIP)

CLEAR SIGHT TRIANGLE

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

CLINIC:

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

CHILD CARE FACILITY:

"Child Care Services" means the provision of out-of-home care for children for part of a 24 hour day, excluding the care provided by relatives.

"Group Child Care Home" means a structure in which child care services are provided for seven (7) or more children at any one time, where the child care areas within the structure are not jointly used as a portion of a family residence.

"Family Child Care Center" means a residential structure in which child care services are provided for more than six (6) but less than twelve (12) children, at any one time, where the child care areas are also used as a portion of a family residence.

CLUB:

Buildings or facilities owned or operated by a corporation, association, or persons for a social, educational, or recreational purpose; but not primarily for profit or to render a service that is customarily carried on as a business.

COMMON OPEN SPACE:

A parcel or parcels of land, which may include an area of water, within a development site and designated and intended for the use or enjoyment of residents of a planned residential development, exclusive of streets, off-street parking areas and areas set aside for public facilities.

COMMERCIAL USE:

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

COMMUNITY CENTER:

A place, structure, area, or other facility used for and providing religious, fraternal, social, and/or recreational programs generally open to the public and designed to accommodate and serve significant segments of the community.

CONDITIONAL USE:

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

CONDOMINIUM:

A building, or group of buildings, in which units are owned individually, and the structure, common areas and facilities are owned by all the owners on a proportional, undivided basis.

CONTRACTOR'S STORAGE:

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

CONVENIENCE STORE:

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

CONVENIENCE STORE WITH GAS SALES:

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

COUNTY PLANNING COMMISSION:

The Planning Commission of Luzerne County.

CRITICAL AREAS

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

DENSITY:

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

DECISION:

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

DEVELOPMENT:

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

DETERMINATION:

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

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

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

DISTRICT: (See Zoning District)

DWELLING:

A building or portion thereof used exclusively for residential purposes, including one-family, two-family, and multiple-family dwellings, but not including hotels and boarding houses and dormitories.

DWELLING, MULTIFAMILY:

A detached residential building containing three or more dwelling units, including what is commonly known as an apartment building.

DWELLING, SINGLE-FAMILY, ATTACHED (GROUP, ROW, AND TOWNHOUSES):

One of two or more residential buildings having a common or party wall separating dwelling units.

DWELLING, SINGLE-FAMILY, DETACHED:

A residential building containing not more than one dwelling unit.

DWELLING, TWO FAMILY:

A residential building containing two (2) dwelling units, entirely separated from each other by vertical walls or horizontal floors, excluding possible common access to enter/exit the building or for access to a common cellar or basement.

DWELLING UNIT:

One or more rooms physically arranged so as to create an independent housekeeping establishment for occupancy by one family with separate bathroom, toilet and sanitary facilities and facilities for cooking and sleeping for exclusive use by the family residing therein.

EASEMENT:

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

EASEMENT, DRAINAGE:

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

ENTERTAINMENT FACILITIES:

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

ENVIRONMENTAL IMPACT STATEMENT

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

EXCAVATION:

Removal or recovery by any means whatsoever of soil, rock, minerals, mineral substances or organic substances other than vegetation, from water or land on or beneath the surface thereof, or beneath the land surface, whether exposed or submerged.

FAMILY:

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

FLOOD:

The temporary inundation of normally dry land.

FLOOD, ONE-HUNDRED YEAR:

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

FLOODPLAIN:

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

FLOODPROOFING:

Any combination of structural and non-structural additions, changes, or adjustments to properties and structures which reduce or eliminate flood damage to property, structures, and contents of buildings.

FLOODWAY:

The channel of a river, stream, or other watercourse and the adjacent land areas that must be reserved in order to discharge the 100-year flood within cumulatively increasing the water surface elevation more than one foot at any point.

FLOOR AREA GROSS:

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

FLOOR AREA RATIO:

Determined by dividing the gross floor area of all buildings on a lot by the area of that lot.

FRONTAGE:

The length of any one property line of a premises, which property line abuts a legally accessible street right-of-way.

GARAGE, PRIVATE:

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

GARAGE, REPAIR: (SEE ALSO SERVICE STATION)

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

GENERAL NUISANCE:

Any use considered to be inconsistent with the public comfort, convenience, health, safety, and general welfare, including the following: fire and explosion hazards; electrical and radioactive disturbances; noise and vibration; dust, dirt, and fly ash; glare; smoke and odors; and other forms of air pollution.

GOVERNING BODY:

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

GROUP RESIDENCE:

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

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

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

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

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

HAZARDOUS SUBSTANCES:

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

1. cause, or significantly contribute to, an increase in mortality or an increase in a serious irreversible or incapacitating reversible illness.
2. pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed of or otherwise managed.

This definition shall be deemed to include radioactive material and medical waste.

HIGHWAY OCCUPANCY PERMIT:

A permit, issued by the Pennsylvania Department of Transportation, the Luzerne County Road and Bridge Department or Foster Township which authorizes access from a parcel

of land onto a highway, road or street which is under the respective jurisdiction of the above entities.

HELIPORT:

An area, either at ground level or elevated on a structure, licensed and approved for the loading and takeoff of helicopters, and including auxiliary facilities such as parking, waiting room, fueling and maintenance equipment.

HELISTOP:

A heliport, but without auxiliary facilities such as parking, waiting room, fueling and maintenance equipment.

HEALTH/RECREATION FACILITY:

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

HOME OCCUPATION:

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

HOSPITAL:

An institution specializing in giving clinical, temporary, and emergency services of a medical or surgical nature to human patients and injured persons, and licensed by state law to provide facilities and services in surgery, obstetrics, and general medical practice.

HOTEL: (ALSO SEE MOTEL)

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

IMPACT ANALYSIS:

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

Zoning Hearing Board under or within the context of the term "IMPACT ANALYSIS." The landowner and/or applicant shall also be responsible to fully reimburse Foster Township for any and all engineering and or other consulting fees which are incurred for the review of any required impact studies or reports for a conditional use.

IMPERVIOUS MATERIAL:

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

INDUSTRY, HEAVY:

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

INDUSTRY, LIGHT:

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

INSTITUTIONAL USE:

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

JUNK:

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

JUNKYARD (See also Automobile Wrecking Yard):

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

LAND DEVELOPMENT:

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

- (A) a group of two or more residential or nonresidential buildings, whether proposed initially or cumulatively, a single nonresidential building on a lot or lots regardless of the number of occupants or tenure, with the size of the building exceeding five thousand (5,000) square feet
- (B) Any nonresidential use of land, with or without structures, which encompasses five (5) or more acres of land, excluding agricultural use of land.
- (C) the division or allocation of land or space, whether initially or cumulatively, between or among two or more existing or prospective occupants by means of, or for the purpose of streets, common areas, leaseholds, condominiums, building groups or other features.
- (D) the conversion of an existing single-family detached dwelling or single family semidetached dwelling into more than three (3) residential units. Any conversion, described above, which results in not more than three (3) residential units shall be deemed as a land development if the units are intended to be a condominium.
- (E) the development of a mobile home park or the expansion of an existing mobile home park within the context of the definition of said term as contained within this Ordinance.
- (F) a single residential structure containing five (5) or more residential units.

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

LANDOWNER:

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

LOT:

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

LOT AREA:

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

LOT CORNER:

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

LOT COVERAGE:

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

LOT DEPTH:

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

LOT LINE:

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

LOT LINE, REAR:

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

LOT LINE, SIDE:

Any lot line not a front or rear lot line.

LOT OF RECORD:

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

LOT, THROUGH:

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

LOT WIDTH:

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

MANUFACTURED HOME:

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

MANUFACTURED HOME PARK:

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

MEDIATION:

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

MOBILE HOME:

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

MOBILE HOME LOT:

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

MOBILE HOME PARK:

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

MOTEL (See also Hotel):

A building or group of buildings containing apartments and/or rooming units, each of which maintains a separate outside entrance. Such building or group of buildings is designed, intended, or used primarily for the accommodations of automobile travelers and provides automobile parking conveniently located on the premises.

MUNICIPALITY:

The Township of Foster, Luzerne County, Pennsylvania.

NIGHTCLUB:

A commercial establishment dispensing alcoholic beverages for consumption on the premises and in which dancing is permitted, including the term "cabaret."

NONCONFORMING LOT:

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

NONCONFORMING STRUCTURE:

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

NONCONFORMING USE:

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

OFFICE:

A building or portion of a building, wherein services are performed involving predominantly administrative, professional, or clerical operations.

OPEN SPACE:

An area that is intended to provide light and air, and is designed for either environmental, scenic, or recreational purposes. Open space may include, but is not limited to, lawns, decorative planting, walkways, active and passive recreation areas, playgrounds, fountains, swimming pools, wooded areas, and water courses. Open space shall not be deemed to include driveways, parking lots, or other surfaces designed or intended for vehicular travel.

OUTDOOR STORAGE:

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

PARCEL:

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

PARKING SPACE:

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

PERSONAL SERVICES:

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

PLACE OF WORSHIP:

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

PLANNING COMMISSION:

The Planning Commission of Foster Township.

PLANNED RESIDENTIAL DEVELOPMENT:

An area of land, controlled by a landowner, to be developed as a single entity for a number of dwelling units, with a development plan which does not correspond in lot size, bulk or

type of dwelling density, lot coverage and required open space to the regulations established in any one residential district created, from time to time, under the provisions of this Ordinance.

PRINCIPAL USE:

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

PRIVATE:

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

PUBLIC:

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

PUBLIC HEARING:

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

PUBLIC MEETING:

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

PUBLIC NOTICE:

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

PUBLIC USES:

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

PUBLIC UTILITIES FACILITIES:

Telephone, electric and cable television lines, equipment and structures; water or gas pipes, mains, valves, or structures, pumping stations; telephone exchanges and all other facilities, equipment and structures necessary for conducting a service by public utility.

RECREATIONAL FACILITIES, COMMERCIAL:

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

RECREATIONAL FACILITIES, PRIVATE:

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

RECREATIONAL FACILITIES, PUBLIC:

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

REPORT:

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

RESTAURANT:

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

RIGHT-OF-WAY:

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

ROOMING HOUSE:

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

- Dwelling
- Motel and/or Hotel
- Group Residence
- Dwelling Unit
- Bed and Breakfast Facility

ROOMING UNIT:

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

SATELLITE DISH ANTENNA:

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

SEWAGE DISPOSAL, CENTRALIZED

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

SEWAGE DISPOSAL, ON-LOT:

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

SCHOOL:

A facility that provides a curriculum of elementary and secondary academic instruction, including kindergartens, elementary schools, junior high schools, and high schools.

SCREENING:

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

SEATING CAPACITY:

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

SELF-SERVICE STORAGE FACILITY:

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

SERVICE STATION:(SEE ALSO GARAGE, REPAIR)

Any premises where gasoline and other petroleum products are sold and/or light maintenance activities such as engine tune-ups, lubrication and minor repairs are conducted. Service stations shall not include service and maintenance activities which include or are comparable to those provided for under the definition of a " Repair Garage".

SELF-SERVICE STATION:

An establishment where liquids used as motor fuels are stored and dispersed into the fuel tanks of motor vehicles by persons other than the service station attendant and may include facilities available for the sale of other retail products, subject to the sales of other retail products being secondary and incidental to the principal use.

SETBACK:

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

SIGN:

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

SIGN AREA:

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

SITE PLAN:

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

SPECIAL EXCEPTION:

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

SOCIAL HALL:

A room or building used for friendly or convivial gatherings, normally owned and/or operated by a nonprofit or civic organization.

SOLID WASTE OR WASTE:

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

SOLID WASTE FACILITY:

Any facility operated pursuant to the laws of the Commonwealth of Pennsylvania governing the management, processing, treatment, storage, transfer and/or disposal of solid waste or waste, as so defined by this Ordinance.

STAGING AREA:

Any area where vehicles containing solid waste are parked, stored or located prior to depositing said solid waste at a solid waste facility. Said use shall be classified and regulated as a " Solid Waste Facility".

STORY:

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

STREET:

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

STRUCTURE:

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

SUBDIVISION:

The division or redivision of a lot, tract or parcel of land into two or more lots, tracts or parcels or other divisions of land including changes in existing lot lines for the purpose, whether immediate or future , of lease, partition by the court for distribution to heirs or devisees, transfer of ownership of buildings or lot development.

TOWER:

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

TOWNHOUSE:

An attached residential building containing not less than three (3) single family dwelling units, but not more than six (6) single family dwelling units, having separate front and rear access to the outside, with no dwelling unit located above any other. Each dwelling unit is separated from one another by one or more common walls.

TOWNSHIP:

Township of Foster, Luzerne County, Pennsylvania.

TRANSFER STATION:

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

TRUCKING FACILITY:

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

VARIANCE:

A waiver granted by the Zoning Hearing Board from the terms and requirements of this Ordinance in accordance with Section 1509 of this Ordinance.

WAREHOUSE:

A building used primarily for storage of goods and material.

WAREHOUSING AND DISTRIBUTION:

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

WATER SUPPLY SYSTEM, CENTRALIZED:

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

WETLANDS:

Those areas that are inundated or saturated by the surface or ground water at a frequency or duration sufficient to support, and under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, including swamps, marshes, bogs and similar areas. The term includes but is not limited to wetland areas listed in The State Water Plan, The United States Forest Service Wetlands Inventory of Pennsylvania, The Pennsylvania Coastal Zone Management Plan and any wetland area designated by a river basin commission.

YARD:

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

YARD, FRONT:

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

YARD, REAR:

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

YARD, SIDE:

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

ZONING DISTRICT:

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

ZONING HEARING BOARD:

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

ZONING MAP:

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

ZONING OFFICER:

The administrative officer appointed by the Governing Body to administer and enforce the Zoning Ordinance of Foster Township, Luzerne County, Pennsylvania.

ARTICLE 3

GENERAL REGULATIONS

SECTION 301 **COMPLIANCE REQUIRED**

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

SECTION 302 **INTERPRETATION AND CONFLICT**

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

A. PUBLIC PROVISIONS

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

B. PRIVATE PROVISIONS

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

SECTION 303 ATTACHED ACCESSORY STRUCTURES

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

SECTION 304 UNATTACHED ACCESSORY STRUCTURES

304.1 NONRESIDENTIAL

When the principal use or structure is nonresidential, an unattached accessory structure shall comply with the front yard setback requirements applicable to the principal structure or use for the zoning district in which it is located and shall not be less than fifteen (15') feet from any side yard lot line or rear yard lot line.

304.2 RESIDENTIAL

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

- (A) The maximum height shall not exceed one and one-half (1.5) stories or fifteen (15') feet, whichever is the lesser.
- (B) An accessory structure which has a floor area which equals or exceeds seven hundred and fifty (750) square feet shall not be located less than ten (10') feet from a side lot line or the rear lot line. An accessory structure which has a floor area which is less than seven hundred and fifty (750) square feet shall not be located less than five (5') feet from a side lot line or the rear lot line. In cases where said accessory structure abuts a street or alley a setback of ten (10) feet shall be required, which shall also subject to Section 315.1, if applicable. Excluding A-1 and C-1 zoning districts, an accessory residential structure shall not exceed 1,500 square feet of floor area.

SECTION 305 CORNER LOT RESTRICTION

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

SECTION 306 TYPES OF RESIDENTIAL ACCESSORY STRUCTURES

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

**SECTION 307 RESIDENTIAL ACCESSORY STRUCTURES IN A
NONRESIDENTIAL ZONE**

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

SECTION 308 PRIVATE NONCOMMERCIAL SWIMMING POOLS

Swimming pools shall be located in either the rear yard or side yard of the property on which it is an accessory use. The swimming pool and any accessory structures thereto, shall have a minimum setback of ten (10') feet from any rear or side yard lot line. All swimming pools, capable of containing water to a depth, at any point, in excess of eighteen (18) inches shall be enclosed in accordance with the following subsections:

308.1 IN-GROUND POOLS

The pool or the entire property on which the pool is located, shall be enclosed with a permanent fence not less than six (6') feet in height, which includes a gate secured with a lock.

308.2 ABOVE GROUND POOLS

An above ground pool shall be enclosed with a permanent fence not less than four (4') feet in height which includes a gate secured with a lock in accordance with the above requirements of Section 308.1 or in lieu of a fence, a barrier not less than four (4') feet in height. Said barrier may include the pool wall and any extension thereto which equals or exceeds a height of four (4') feet. Access into a pool which includes a deck shall be secured by a gate with a lock. Pools without access from a deck, shall include retractable steps or any similar device which prohibits uncontrolled access into the pool when not in use. Shrubbery is not to be considered as a barrier. Decks which are attached to the pool shall not project into any required yard setback for the pool.

SECTION 309 LOTS DIVIDED BY ZONING BOUNDARIES

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

SECTION 310

PROJECTIONS INTO REQUIRED YARDS

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

- (A) Terraces or Patios: provided that such terraces or patios are located in the rear yard or sideyard, are not under roof, without walls or other form of enclosure and are not closer than five (5') feet to any adjacent lot line.
- (B) Projecting Architectural Features: such as bay windows, cornices, eaves, fireplaces, chimneys, window sills, or other similar architectural features provided that any of the aforementioned features do not extend more than two feet into any required setback.
- (C) Porches and Decks: provided such porches or decks are located in the rear yard or sideyard, and that such does not exceed four and one-half (4.5) feet in depth as extended from the structure.
- (D) Handicapped Ramps: may be constructed without meeting any applicable front and/or rear yard setback requirements in any Zoning District, but shall have a minimum side yard setback of not less than five (5) feet.

SECTION 311

EXCEPTIONS TO HEIGHT LIMITATIONS

The height limitations of this Ordinance shall not apply to church spires, belfries, cupolas, domes, chimneys, flagpoles, water towers, television or radio transmission towers, skylights; nor to any accessory mechanical appurtenances usually located above the roof level.

SECTION 312

CONVERSION OF NONRESIDENTIAL STRUCTURES

The conversion of a building not constructed for residential use which is located in an R-2 District or a nonresidential district may be converted into a residential use upon approval of such as a special exception use and subject to the following:

- A. A ratio of one (1) dwelling unit for every three thousand five hundred (3,500) square feet of lot area, provided that not more than six (6) dwelling units shall be created in the conversion of any such building.
- B. The use of on-lot sewage disposal shall require approval from the Township's Sewage Enforcement Officer in accordance with the applicable governing standards of the Pennsylvania Department of Resources prior to the issuance of a zoning permit.

- C. All other applicable requirements of this Ordinance are met, including but not limited to, the provision of one (1) off-street parking space for each dwelling unit created.

SECTION 313 REQUIRED ACCESS

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

SECTION 314 LAND DEVELOPMENT APPROVAL FOR CERTAIN USES

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

- (A) a group of two or more residential or nonresidential buildings, whether proposed initially or cumulatively, a single nonresidential building on a lot or lots regardless of the number of occupants or tenure, with the size of the building exceeding five thousand (5,000) square feet
- (B) Any nonresidential use of land, with or without structures, which encompasses five (5) or more acres of land, excluding agricultural use of land.
- (C) the division or allocation of land or space, whether initially or cumulatively, between or among two or more existing or prospective occupants by means of, or for the purpose of streets, common areas, leaseholds, condominiums, building groups or other features.
- (D) the conversion of an existing single-family detached dwelling or single family semidetached dwelling into more than three (3) residential units. Any conversion, described above, which results in not more than three (3) residential units shall be deemed as a land development if the units are intended to be a condominium.
- (E) the development of a mobile home park or the expansion of an existing mobile home park within the context of the definition of said term as contained within this Ordinance.
- (F) a single residential structure containing five (5) or more residential units.

SECTION 315 VISIBILITY AT INTERSECTIONS AND PRIVATE DRIVEWAYS

315.1 INTERSECTION OF STREETS

On any corner lot no visual obstruction between two and one-half (2.5') feet and eight (8) feet in height, excluding street signs, utility poles or traffic signs, shall be erected or maintained within the triangle formed by the intersection of centerlines of intersecting street right-of-way lines adjacent to the corner lot and a line projected between points on each of those adjacent centerlines for a minimum distance of twenty (20') feet from their intersection.

315.2 PRIVATE DRIVEWAYS

No visual obstruction between two and one-half (2.5') feet and eight (8) feet in height, shall be erected or maintained within the triangle formed between the intersection of centerlines of a street right-of-way line and a depth of ten (10') feet along the centerline of the street right-of-way and a depth of ten (10') feet along the centerline of a private driveway.

SECTION 316 FENCES AND WALLS

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

316.1 RESIDENTIAL

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

A. FRONT YARD

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

B. SIDE AND REAR YARDS

The maximum height of any fence or wall located in a side yard or rear yard shall not exceed eight (8') feet in height.

C. MATERIALS

All fences shall be constructed with materials recognized by the fencing industry and designed to provide a permanent enclosure. No barbed wire or other

potentially injurious material shall be contained upon the fence or as part of the material to construct the fence.

316.2 NONRESIDENTIAL

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

316.3 EXEMPTIONS

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

SECTION 317 PUBLIC UTILITIES

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

SECTION 318 VALIDITY/INVALIDITY PRIOR APPROVALS AND/OR PERMITS

318.1 VALID APPROVALS AND/OR PERMITS

Any use of land, structure and/or building approved prior to the enactment of this Ordinance shall be governed by the provisions and terms of approval under the Foster Township Zoning Ordinance of February 4, 1985, as amended, when all of the following conditions are met:

A. WORK IN PROGRESS

1. The approved use of land, structure and/or building displays conclusive visible evidence that the physical installation, development and/or construction of the use in question had commenced prior to the date of adoption and enactment of this Ordinance.
2. The physical installation, development and/or construction shall be completed in not less than twelve (12) months from the date of adoption and enactment of this Ordinance.

Failure to comply with the above two requirements shall render any such prior approval and/or zoning permit as null and void including those issued by the Zoning Officer, Zoning Hearing Board and/or the Board of Supervisors. Any further consideration for the approval of such use shall be fully governed by the terms and provisions of this Ordinance.

B. WORK NOT STARTED

1. The approval and/or zoning permit for the use of land, structure and/or building in question was granted not more than ninety (90) days prior to the date of the adoption and enactment of this Ordinance.
2. The physical installation, development and/or construction of the use in question shall commence within ninety (90) days from the date of adoption and enactment of the Ordinance and shall be completed in not less than twelve (12) months from the date of adoption and enactment of this Ordinance.

Failure to comply with the above two requirements shall render any such prior approval and/or zoning permit as null and void. Any further consideration for the approval of such use shall be fully governed by the terms and provisions of this Ordinance.

SECTION 319 SEWAGE DISPOSAL

319.1 ON-LOT SEWAGE

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

319.2 HOLDING TANKS

The use of a holding tank shall be expressly prohibited to service any use and/or development.

SECTION 320 EXEMPTIONS CERTAIN FOR SIDEYARD SETBACKS

Any structure proposed to be subdivided, containing two or more units, residential or nonresidential, shall be exempted from the governing sideyard setback requirements under the Zoning Ordinance relative only to interior sideyards. When a sideyard of a proposed subdivision is directly attached to another unit within the structure, subdivision approval shall exempt the property from requesting and/or securing an interior sideyard variance from the Zoning Hearing Board.

SECTION 321 **HIGHWAY OCCUPANCY PERMIT**

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

SECTION 322 **SOIL EROSION AND SEDIMENTATION CONTROL PLAN**

A prerequisite of zoning approval for any proposed use and/or development of a property which includes earthmoving moving activities shall be subject to the applicant's submission of a Soil Erosion and Sedimentation Control Plan to the Luzerne County Conservation District and approval of said Plan by said agency or written notification that said Plan is not required for the proposed use and/or development.

Land having a slope of fifteen (15%) percent or more shall be deemed a critical area. The development of such land shall include the preparation and submission of a Soil Erosion and Sedimentation Control Plan to the Luzerne County Conservation District. No zoning permit and/or building permit shall be issued until the Township receives written notice of the Plan's approval from the Luzerne County Conservation District.

SECTION 323 **REPLACEMENT OF MOBILE HOMES**

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

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

The removal of a mobile home as a conforming use upon a property with the intent to replace it with another mobile home shall be in conformance with all applicable setback requirements and area requirements for the zoning district in which it is located.

SECTION 324

CONFLICTING REGULATIONS

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

ARTICLE 4

ZONING MAP AND ZONING DISTRICTS

SECTION 401 OFFICIAL ZONING MAP

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

SECTION 402 CHANGES TO OFFICIAL ZONING MAP

Any changes to the location of zoning district boundaries or other matters portrayed upon the Official Zoning Map shall be undertaken in accordance with the applicable provisions contained within Article 14 of this Ordinance and the Pennsylvania Municipalities Planning Code, Act 247, as amended. Such changes shall be provided upon the Official Zoning Map promptly after the enactment of the subject amendment by the Foster Township Board of Supervisors.

SECTION 403 INTERPRETATION OF BOUNDARIES

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

403.1 ZONING HEARING BOARD

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

403.2 GUIDELINES

- (A) Zoning district boundary lines are intended to follow or parallel the center line of streets, streams and railroads; and the lot or property lines as they exist on a recorded deed or plan in the Luzerne County Recorder of Deeds Office at the time of adoption of this Ordinance, unless such zoning district boundary lines are fixed by dimensions as shown on the Official Zoning Map.
- (B) Where a zoning district boundary is not fixed by dimensions and where it approximately follows lot lines, and does not scale more than ten (10) feet

therefrom, such lot lines shall be construed to be such boundaries unless specifically shown otherwise.

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

SECTION 404 **CLASSES OF ZONING DISTRICTS**

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

R-1	SINGLE FAMILY RESIDENTIAL DISTRICT
R-1A	LOW DENSITY SINGLE FAMILY RESIDENTIAL DISTRICT
R-2	TWO FAMILY RESIDENTIAL DISTRICT
B-2	COMMUNITY BUSINESS DISTRICT
B-3	HIGHWAY BUSINESS DISTRICT
A-1	AGRICULTURAL DISTRICT
C-1	CONSERVATION DISTRICT
I-1	GENERAL INDUSTRIAL DISTRICT
PRD	PLANNED RESIDENTIAL DEVELOPMENT DISTRICT

ARTICLE 5

ZONING DISTRICT REGULATIONS

SECTION 501

R-1 SINGLE FAMILY RESIDENTIAL DISTRICT

501.1 PERMITTED USES

Single-family Detached Dwellings
Public Utility Facilities (excluding storage yards)
Accessory Uses to the Above

501.2 USES PERMITTED BY SPECIAL EXCEPTION

Home Occupations
Public Uses
Public Recreational Facilities
Day Care Homes
Place of Worship
Accessory Uses to the Above

501.3 CONDITIONAL USES (SEE ARTICLE 7)

Planned Residential Developments (SEE ARTICLE 7 and ARTICLE 16)

501.4 DIMENSIONAL REGULATIONS

Each principal building, structure and/or use shall be governed by the following regulations, unless more restrictive standards are applicable, including but not limited to State regulations and supplementary regulations contained in Article 8 of this Ordinance.

- A. **Minimum Lot Area:** Each principal building, or use shall be located upon a lot having a minimum lot area of not less than:
1. Ten Thousand (10,000) square feet when serviced by central sewers.
 2. One (1) acre when serviced by on-lot sewage disposal and governed by the applicable standards of the Pennsylvania Department of Environmental Resources.
- B. **Minimum Lot Width:** Seventy-five (75) feet

- C. Front Yard: The minimum front yard shall be not less than thirty (30') feet in depth as measured from the front lot line.
- D. Rear Yard: The rear yard shall be not less than forty (40') feet in depth as measured from the rear lot line.
- E. Side Yard: The combined side yards shall be not less than twenty-four (24') feet, with not less than twelve (12) feet on each side.
- F. Lot Coverage: Not more than twenty-five (25%) percent of the lot area shall be covered with buildings or structures.
- G. Building Height: The maximum height of any building shall not exceed two and one-half (2.5) stories or thirty-five (35') feet.

501.5 SUPPLEMENTARY REGULATIONS (SEE ARTICLE 8)

501.6 SUBDIVISION AND LAND DEVELOPMENT

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

SECTION 502
R-1A LOW DENSITY SINGLE FAMILY RESIDENTIAL DISTRICT

502.1 PERMITTED USES

Single-family Detached Dwellings
Public Utility Facilities (excluding storage yards)
Accessory Uses to the Above

502.2 USES PERMITTED BY SPECIAL EXCEPTION (SEE ARTICLE 6)

Home Occupations
Public Uses
Public Recreational Facilities
Day Care Homes
Place of Worship
Accessory Uses to the Above

502.3 CONDITIONAL USES (SEE ARTICLE 7)

Planned Residential Developments (SEE ARTICLE 7 and ARTICLE 16)

502.4 DIMENSIONAL REGULATIONS

Each principal building, structure and/or use shall be governed by the following regulations, unless more restrictive standards are applicable, including but not limited to state regulations and supplementary regulations contained in Article 8 of this Ordinance.

A. **Minimum Lot Area:** Each principal building, structure and/or use shall be located upon a lot having a minimum lot area of not less than:

1. Twenty Thousand (20,000) square feet when serviced by central sewers.
2. One (1) acre when serviced by on-lot sewage disposal and governed by the applicable standards of the Pennsylvania Department of Environmental Resources.

B. **Minimum Lot Width:**

One Hundred (100') feet for lots serviced by central sewers.

One Hundred and Fifty (150') for lots with on-lot sewage disposal.

- C. Front Yard: The minimum front yard shall be not less than forty (40') feet in depth as measured from the front lot line.
- D. Rear Yard: The rear yard shall be not less than forty (40') feet in depth as measured from the rear lot line.
- E. Side Yard: The combined side yards shall be not less than thirty (30') feet, with not less than fifteen (15') feet on each side.
- F. Lot Coverage: Not more than twenty-five (25%) percent of the lot area shall be covered with buildings or structures.
- G. Building Height: The maximum height of any building shall not exceed two and one-half (2.5) stories or thirty-five (35') feet.

502.5 **SUPPLEMENTARY REGULATIONS (SEE ARTICLE 8)**

502.6 **SUBDIVISION AND LAND DEVELOPMENT**

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

SECTION 503
R-2 TWO FAMILY RESIDENTIAL DISTRICT

503.1 PERMITTED USES

Single-Family Detached Dwellings
Single-Family Attached Dwellings
Two Family Dwellings
Public Utility Facilities (excluding storage yards)
Accessory Uses to the Above

503.2 USES PERMITTED BY SPECIAL EXCEPTION (SEE ARTICLE 6)

Single Residential Structures, containing multifamily dwelling units (See Article 8)
Home Occupations
Public Uses
Public Recreational Facilities
Day Care Homes
Group Residence
Place of Worship
Nonprofit Social Halls, Clubs, Lodges and similar organizations not open to the general public and limited to members and their guests
Accessory Uses to the Above

503.3 CONDITIONAL USES (SEE ARTICLE 7)

503.4 DIMENSIONAL REGULATIONS

Each principal building, structure and/or use shall be governed by the following regulations, unless more restrictive standards are applicable, including but not limited to state regulations and supplementary regulations contained in Article 8 of this Ordinance.

A. **Minimum Lot Area:** Each principal building, structure and/or use which shall be connected to central sewers shall be located upon a lot having a minimum lot area of not less than:

1. Six Thousand (6,000) square feet when serviced by central sewers.
2. One (1) acre when serviced by an on-lot sewage disposal system and governed by the applicable standards of the Pennsylvania Department of Environmental Resources.

- B. Minimum Lot Width: Sixty (60') feet
- C. Front Yard: The minimum front yard shall be not less than twenty (20') feet in depth as measured from the front lot line.
- D. Rear Yard: The rear yard shall be not less than twenty-five (25') feet in depth as measured from the rear lot line.
- E. Side Yard: The combined side yards shall be not less than twenty feet, with not less than ten (10') feet on each side.
- F. Lot Coverage: Not more than fifty (50%) percent of the lot area shall be covered with buildings or structures.
- G. Building Height: The maximum height of any building shall not exceed two and one-half (2.5) stories or thirty-five (35') feet.

503.5 SUPPLEMENTARY REGULATIONS (SEE ARTICLE 8)

503.6 SUBDIVISION AND LAND DEVELOPMENT

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

SECTION 504
B-2 COMMUNITY BUSINESS DISTRICT

504.1 PERMITTED USES

A. RETAIL BUSINESS, INCLUDING OR SIMILAR TO THE SALE OF:

Food
Drugs
Clothing and Clothing Accessories
Convenience Stores
Convenience Stores with Gas Sales
Newspapers, Books and Stationery
Dry Goods
Hardware, Paint
Variety Goods
Household Goods and Appliances
Garden Supplies
Building, or Plumbing Supplies
Office Equipment and Supplies
Sporting Goods
Artist, Music and Hobby Supplies
Automotive Supplies

B. SERVICE-ORIENTED BUSINESS INCLUDING OR SIMILAR TO:

Personal Services
Professional Offices
Automotive and Boat Sales
Gasoline Service Stations
Restaurants
Taverns
Public Uses
Medical Offices and Clinics
Day Care Centers
Health Clubs
Public Utility Facilities (excluding storage yards)

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

Commercial Recreational Facilities
Private Recreational Facilities
Public Recreational Facilities
Entertainment Facilities

Nonprofit Social Halls, Clubs and Community Centers

D. RESIDENTIAL USES

Single-family Detached Dwellings
Single-family Attached
Two-family Dwellings
Dwelling over and/or attached to Business
Conversion of Nonresidential Building into Residences (Section 312)
Accessory uses to the above

E. ACCESSORY USES TO ALL USES PERMITTED BY RIGHT:

504.2 USES PERMITTED BY SPECIAL EXCEPTION (SEE ARTICLE 6)

Public Uses
Multifamily Dwellings
Group Residences
Boarding Homes
Funeral Homes
Accessory uses to the above

504.3 CONDITIONAL USES (SEE ARTICLE 7):

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

- (a) the initial or cumulative disturbance which equals or exceeds 87,120 square feet of surface area.
- (b) the initial or cumulative construction, placement or installation which equals or exceeds 43,560 square feet of buildings, structures and/or other impervious surface area.

504.4 DIMENSIONAL REGULATIONS

Each principal building, structure and/or use shall be governed by the following regulations, unless more restrictive standards are applicable, including but not limited to State regulations and supplementary regulations contained in Article 8 of this Ordinance.

A. Minimum Lot Area:

None, subject to the lot being serviced by centralized sewers and a centralized water supply system.

Ten Thousand (10,000) square feet subject to the lot being serviced by centralized sewers.

One (1) acre when serviced by an on-lot sewage disposal system and an on-lot water supply system.

- B. Minimum Lot Width: Fifty (50) feet subject to the lot being serviced by centralized sewers. One Hundred (100) feet, when the required minimum lot size is one (1) acre.
- C. Front Yard: The minimum front yard shall be not less than twenty (20') feet in depth as measured from the front lot line.
- D. Rear Yard: The rear yard shall be not less than twenty (20') feet in depth as measured from the rear lot line; a rear yard setback of thirty-five (35') feet shall be required when the adjoining rear lot contains a residential use or a residential zoning district.
- E. Side Yard: The side yard shall be not less than ten (10') feet on each side when the adjoining lot contains a nonresidential use; a side yard setback of not less than twenty (20) feet shall be required for any side yard when adjoining lot contains a residential use or where it abuts a residential zoning district.
- F. Lot Coverage: Not more than sixty (60%) percent of the lot area shall be covered by buildings or structures.
- G. Building Height: The maximum height of any building shall not exceed two and one-half (2.5) stories or thirty-five (35') feet.

504.5 SUPPLEMENTARY REGULATIONS (SEE ARTICLE 8)

504.6 SUBDIVISION AND LAND DEVELOPMENT

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

SECTION 505
B-3 HIGHWAY BUSINESS DISTRICT

505.1 PERMITTED USES

A. RETAIL BUSINESS, INCLUDING OR SIMILAR TO:

Food
Drugs
Clothing and Clothing Accessories
Convenience Stores
Convenience Stores with Gas Sales
Newspapers, Books and Stationery
Dry Goods
Hardware, Paint
Variety Goods
Household Goods and Appliances
Garden Supplies
Building, Lumber or Plumbing Supplies
Sporting Goods
Hobby, Music, Artist Supplies and Studios
Furniture or Office Supplies and Equipment
Automotive Supplies
Sale of Agricultural Products in accordance with Section 320
Accessory uses to the above

B. SERVICE-ORIENTED BUSINESS INCLUDING OR SIMILAR TO:

Personal Services
Professional Offices
Service Offices
Banks, Credit Unions and similar uses
Automotive Sales
Greenhouses and Nurseries
Gasoline Service Stations
Bed and Breakfast Establishments
Restaurants
Taverns
Public Uses
Nursing Homes and Facilities
Medical Clinics
Veterinary Hospitals
Day Care Centers
Health Clubs

Public Utility Facilities (excluding storage yards)
Accessory uses to the above

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

Entertainment Facilities
Nonprofit Social Halls, Clubs and Community Centers
Accessory uses to the above

D. RESIDENTIAL USES

Single-Family Detached Dwellings
Two Family Dwellings
Dwelling over and/or attached to Business
Accessory uses to the above

505.2 USES PERMITTED BY SPECIAL EXCEPTION

Public Uses
Home Occupations
Hotels/Motels
Television, Radio and/or Telephone Towers
Trucking Facilities
Funeral Homes
Helistop
Car Wash
Automobile Repair Shops
Accessory uses to the above

505.3 CONDITIONAL USES (SEE ARTICLE 7):

Commercial Recreational Facilities

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

- (a) the initial or cumulative disturbance which equals or exceeds 87,120 square feet of surface area.
- (b) the initial or cumulative construction, placement or installation which equals or exceeds 43,560 square feet of buildings, structures and/or other impervious surface area.

505.4

DIMENSIONAL REGULATIONS

Each principal building, structure and/or use shall be governed by the following regulations, unless more restrictive standards are applicable, including but not limited to State regulations and supplementary regulations contained in Article 8 of this Ordinance.

- A. Minimum Lot Area: Twenty thousand (20,000) square feet for lots serviced by centralized sewers. One (1) acre for lots serviced by an on-lot sewage disposal system .
- B. Minimum Lot Width:

Nonresidential Uses - one hundred and fifty (150) feet.

Residential Uses - one hundred (100) feet
- C. Front Yard: The minimum front yard shall be not less than fifty (50') feet in depth as measured from the front lot line.
- D. Rear Yard: The rear yard shall be not less than forty (40') feet in depth as measured from the rear lot line.
- E. Side Yard: The side yard shall be not less than fifteen (15') feet on each side when the adjoining lot contains a nonresidential use; a side yard setback of not less than thirty-five (35) feet shall be required for any side yard when adjoining lot contains a residential use or where it abuts a residential zoning district.
- F. Lot Coverage: Not more than fifty (50%) percent of the lot area shall be covered by buildings or structures.
- G. Building Height: The maximum height of any building shall not exceed two (2) stories or thirty (30') feet.

505.5

SUPPLEMENTARY REGULATIONS (SEE ARTICLE 8)

505.6

SUBDIVISION AND LAND DEVELOPMENT

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

SECTION 506
C-1 CONSERVATION DISTRICT

506.1 **PERMITTED USES**

Agricultural Uses
Sale of Agricultural Products in accordance with Section 320
Forestry
Greenhouses and Nurseries
Animal Kennels
State Game Lands and State Parks
Single-family Detached Dwellings
Public Uses
Public Utility Facilities (excluding storage yards)
Accessory Uses to the Above

506.2 **USES PERMITTED BY SPECIAL EXCEPTION**

Home Occupations
Outdoor Storage as defined in Article 2
Television, Radio and Telephone Towers
Cemeteries
Accessory Uses to the Above

506.3 **CONDITIONAL USES (SEE ARTICLE 7)**

Private Recreational Facilities
Public Recreational Facilities
Commercial Recreational Facilities

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

- (a) the initial or cumulative disturbance which equals or exceeds 87,120 square feet of surface area.
- (b) the initial or cumulative construction, placement or installation which equals or exceeds 43,560 square feet of buildings, structures and/or other impervious surface area.

Extraction, excavation and/or removal of natural resources, excluding coal and/or coal by products.

506.4 DIMENSIONAL REGULATIONS

A principal building, structure and/or use shall be governed by the following regulations, unless more restrictive standards are applicable, including but not limited to State regulations and supplementary regulations contained in Article 8 of this Ordinance.

- A. Minimum Lot Area: Each principal building or use shall be located upon a lot having a minimum lot area of not less than two (2) acres.
- B. Minimum Lot Width: Each lot shall have a lot width not less than two hundred (200') feet.
- C. Front Yard: The minimum front yard shall be not less than fifty (50') feet in depth as measured from the front lot line.
- D. Rear Yard: The rear yard shall be not less than fifty (50') feet in depth as measured from the rear lot line.
- E. Side Yard: The side yard shall be not less than twenty-five (25') feet on each side.
- F. Lot Coverage: Not more than twenty (20%) percent of a lot shall be covered by buildings. Total impervious cover shall not exceed thirty (30%) percent.
- G. Building Height: The maximum height of any building shall not exceed two and one-half (2.5) stories or thirty-five (35') feet.

506.5 SUPPLEMENTARY REGULATIONS (SEE ARTICLE 8)

506.6 SUBDIVISION AND LAND DEVELOPMENT

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

SECTION 507
A-1 AGRICULTURAL DISTRICT

507.1 **PERMITTED USES**

Agricultural Uses
Greenhouses and Nurseries
Single Family Detached Dwellings
Two-Family Dwellings
Mobile Homes on Permanent Foundation
Game Lands and Wildlife Preserves
Cemeteries
Public Uses
Public Utility Facilities (excluding storage yards)
Accessory Uses to the Above

507.2 **USES PERMITTED BY SPECIAL EXCEPTION**

Home Occupations
Veterinary Hospitals
Animal Kennels
Nursery or Day Care Schools
Television, Radio and Telephone Towers
Nonprofit Social Hall, Clubs and Lodges

507.3 **CONDITIONAL USES (SEE ARTICLE 7)**

Planned Residential Developments (SEE ARTICLE 7 and ARTICLE 16)
Mobile Home Parks
Public Recreational Facilities
Private Recreational Facilities
Commercial Recreational Facilities

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

- (a) the initial or cumulative disturbance which equals or exceeds 87,120 square feet of surface area.
- (b) the initial or cumulative construction, placement or installation which equals or exceeds 43,560 square feet of buildings, structures and/or other impervious surface area.

Extraction, excavation and/or removal of natural resources.

507.4 **DIMENSIONAL REGULATIONS**

- A. **Minimum Lot Area:** Each principal building or use shall be located upon a lot having a minimum lot area of not less than one (1) acres.
- B. **Minimum Lot Width:** Each lot shall have a lot width not less than one hundred fifty (150') feet
- C. **Front Yard:** The minimum front yard shall be not less than fifty (50') feet in depth as measured from the front lot line.
- D. **Rear Yard:** The rear yard shall be not less than fifty (50') feet in depth as measured from the rear lot line.
- E. **Side Yard:** The side yard shall be not less than twenty-five (25') feet on each side.
- F. **Lot Coverage:** Not more than twenty (20%) percent of the lot area shall be covered by buildings or structures.
- G. **Building Height:** The maximum height of any building shall not exceed two and one-half (2.5) stories of thirty-five (35') feet. Exceptions to the limitation shall include chimneys, antennae or similar devices.

507.5 **SUPPLEMENTARY REGULATIONS (SEE ARTICLE 8)**

507.6 **SUBDIVISION AND LAND DEVELOPMENT**

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

SECTION 508
I-1 GENERAL INDUSTRIAL DISTRICT

508.2 **PERMITTED USES**

Repair Garages
Automotive Sales
Print Shops
Equipment Sales and Repairs
Light Industry (as defined in Article 2)
Lumberyards
Contractors' Offices, Shops and Storage Yards (for commercial uses
which sell products such as: lumber, building, heating, plumbing,
electrical, masonry, fencing and related material).
Outdoor Storage as defined in Article 2
Warehouse and Distribution Facilities
Warehousing, including Self-Storage Facilities
Trucking Facilities
Public Utility Facilities
Public Uses
Gasoline Service Stations
Accessory Uses to the Above

508.3 **USES PERMITTED BY SPECIAL EXCEPTION (SEE ARTICLE 8)**

Bulk Fuel Storage
Television, Radio and Telephone Towers

508.4 **CONDITIONAL USES (SEE ARTICLE 7)**

Solid Waste Facilities
Staging Areas
Transfer Stations
Automotive Wrecking Yards
Junk Yards
Heavy Industrial Uses (as defined in Article 2)
Sewage Treatment Facilities
Adult Uses

Any use which is directly or indirectly involved with processing and/or treating any type of organic, inorganic and/or inert material for the purpose of changing and/or altering the composition of certain chemical properties within the material and/or the quantity of certain chemical levels within the material, regardless of whether or not the processing and/or treatment alters the physical composition of the subject material.

The use, reuse, deposit and/or disposal of material following the processing and/or treatment of the same as provided for under Item # 4 of this Section, regardless of whether or not the subject material originated from Foster Township and/or was processed/treated in Foster Township. The backfilling and/or grading of any land with such material, with or without any proposed further development of the site, shall be deemed to be included within the context of the use, reuse, deposit and/or disposal of material.

Extraction, excavation, removal and/or surface mining of coal and/or coal by products.

Extraction, excavation and/or removal of natural resources.

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

- (a) the initial or cumulative disturbance which equals or exceeds 87,120 square feet of surface area.
- (b) the initial or cumulative construction, placement or installation which equals or exceeds 43,560 square feet of buildings, structures and/or other impervious surface area.

508.5 DIMENSIONAL REGULATIONS

Each principal building, structure and/or use shall be governed by the following regulations, unless more restrictive standards are applicable, including but not limited to State regulations and supplementary regulations contained in Article 8 of this Ordinance.

- A. Minimum Lot Area: Each principal building, structure or use shall be located upon a lot having a lot area of not less than one (1) acre.
- B. Minimum Lot Width: Each lot shall have a lot width not less than one hundred and fifty (150') feet.
- C. Front Yard: The minimum front yard shall be not less than fifty (50') feet in depth as measured from the front lot line.
- D. Rear Yard: The rear yard shall be not less than fifty (50') feet in depth as measured from the rear lot line.
- E. Side Yard: The side yard shall be not less than twenty (25') feet on each side, except when abutting any R District or a C-1 or A-1 District, in which case a side yard setback of fifty (50') feet shall be required.

- F. Lot Coverage: Not more than fifty (50%) percent of the lot area shall be covered by buildings or structures.
- G. Building Height: The maximum height of any building shall not exceed three (3) stories or forty (40') feet.

508.6 SUPPLEMENTARY REGULATIONS (SEE ARTICLE 8)

508.7 SUBDIVISION AND LAND DEVELOPMENT

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

ARTICLE 6

SPECIAL EXCEPTIONS

SECTION 601 PURPOSE

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

SECTION 602 GENERAL PROVISIONS

The authority for approving or denying applications for uses permitted by special exception shall be vested in the Zoning Hearing Board in accordance with the provisions contained in Article 15. Decisions by the Zoning Hearing Board shall be made pursuant to the standards and criteria set forth in this Article (Section 1504), the respective zoning district in which the use is located, all other applicable regulations of this Ordinance, other ordinances of the Township and any applicable State and/or Federal regulations.

SECTION 603 SITE PLAN

Uses classified as a special exception shall file, in addition to a zoning permit, a site plan at a scale of not greater than one (1") inch equal fifty (50') feet, which shall be submitted to the Zoning Officer. Such plan shall provide all information required for the Zoning Hearing Board to render a decision, including but not limited to the following:

- A. The location and size of all buildings and structures, both principal and accessory.
- B. The location of all off-street parking areas and/or loading areas.
- C. The location of all open space areas, including buffer areas and fencing, if applicable.
- D. Traffic access to the site and internal traffic circulation within the site.
- E. All streets, both public and private, within five hundred (500') feet of the site.
- F. Contours of the site for each five (5) feet of change in elevation, based upon a field survey of the site, with the name of the person or firm who conducted the survey and the date of the survey.

- G. The location, nature and terms of any existing or proposed easements on the site and any easements both on-site and off-site which are used or intended to be used for access to the site.
- H. Streams, ponds, watercourses, wetlands or any other type bodies of water, including natural or man-made drainage swales, located on the site or within five hundred (500) feet of the site.
- I. The location of any residential structure within five hundred (500') feet of any property boundary line of the subject site.
- J. The Map, Block and Lot Number of the subject parcel.
- K. A location map at a scale of not greater than one (1) inch equals two thousand (2,000) feet, indicating the relation of the site to its geographic proximity within the Township.
- L. A narrative outline which fully describes the proposed use of the site and the pertinent operational aspects and features of the proposed use.

SECTION 604 GENERAL STANDARDS

The general standards contained herein, in addition to all other applicable regulations, shall be utilized in the review of applications and plans for any use which is classified as a special exception:

- A. The proposed use shall not jeopardize the objectives of the "Community Development Objectives" of this Ordinance nor shall it adversely affect the health, safety and welfare of the public and/or the environment.
- B. Public services and facilities such as streets, sewage disposal, water, police and fire protection shall be adequate for the proposed use.
- C. Existing and future streets and access to the site shall be adequate for emergency services, for avoiding undue congestion, and for providing for the safety and convenience of pedestrian and vehicular traffic.
- D. The relationship of the proposed use to other activities existing or planned in the vicinity shall be harmonious in terms of the location and size relative to the proposed use, and the nature and intensity of the operation involved.
- E. The relationship of the proposed use to other activities existing or planned in the vicinity shall be harmonious in terms of the character and height of buildings, walls and fences so that the use, development and value of adjacent property is not impaired.

- F. The proposed use shall not be more objectionable in its operation in terms of noise, fumes, smoke, vapors, gases, odors, heat, glare, vibration, lighting or electrical disturbances than would be the operation of any permitted use in the district nor shall it constitute a "General Nuisance" as so defined in Article 2 of this Ordinance.
- G. Any other reasonable conditions and safeguards, in addition to those expressed in this Ordinance, may be imposed by the Zoning Hearing Board in the interest of protecting the health, safety and welfare of the public.

SECTION 605 IMPACT ANALYSIS

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

ARTICLE 7

CONDITIONAL USES

SECTION 701 PURPOSE

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

SECTION 702 GENERAL PROVISIONS

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

SECTION 703 PROCEDURE FOR SUBMISSION AND DECISIONS

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

- A. An application for a conditional use permit shall be submitted to the Zoning Officer with a site plan at a scale of not greater than one (1") inch equals one fifty (50') feet. Such plan shall, at minimum, indicate:
 - 1. The location and size of all buildings and structures, both principal and accessory, open space, parking areas, traffic access and circulation.
 - 2. All public or private streets within one thousand (1000') feet of the site.
 - 3. Contours of the site for each two (2) feet of change in elevation, based upon a field survey of the site, with the name of the person or firm who conducted survey and the date of survey.

4. Streams, ponds, watercourses, wetlands or any other bodies of water, including natural or man-made drainage swales located both on the site and within one thousand (1000) feet of the site.
 5. The location, nature and terms of any existing or proposed easements on the site and any existing or proposed easements both on-site and off-site which are used or intended to be used for access to the site.
 6. The location, type and height of any required screening.
 7. The location of all structures within one thousand (1000) feet of any property line boundary of the subject site
 8. The Map, Block and Lot Number of the subject parcel.
 9. A location map at a scale of not greater than one (1) inch equals two thousand (2,000) feet, indicating the relation of the site to its geographic proximity within the Township.
 10. A narrative outline which fully describes the proposed use of the site and the pertinent operational aspects and features of the proposed use.
 11. Any other information required by the Board of Supervisors for determining the conformance of the conditional use with the regulations for that particular use.
- B. Prior to approving or denying an application for a conditional use, the Board of Supervisors shall conduct a public hearing pursuant to public notice. The Board of Supervisors shall submit the application for the proposed conditional use to the Township Planning Commission, not less than thirty (30) days prior to the public hearing, to allow the Planning Commission to submit any such recommendations as they may deem appropriate.
- C. The public hearing shall be held and conducted in accordance with the same procedural guidelines which govern the Zoning Hearing Board under Article 15 of this Ordinance. The term "Board of Supervisors" shall replace the term "Zoning Hearing Board" in relevant passages of said Article.
- D. The Board of Supervisors shall render a final decision on a conditional use application within forty-five (45) days following the conclusion of the last public hearing. Failure to render a decision within the aforementioned time period, shall constitute deemed approval of the application and plans as submitted.
- E. The Board of Supervisors shall grant an approval for a conditional use upon its determination that adequate evidence and information has been provided, which

indicates the applicant's proposal meets the general and specific requirements for the type of conditional use in question, and any additional conditions and safeguards deemed necessary to protect the public health, safety and general welfare.

SECTION 704 GENERAL STANDARDS

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

- A. The proposed use shall not jeopardize the objectives of the Comprehensive Plan or this Ordinance nor shall it adversely affect the health, safety and welfare of the public and/or the environment.
- B. Public services and facilities such as streets, sewage disposal, water, police and fire protection shall be adequate for the proposed use.
- C. Existing and future streets and access to the site shall be adequate for emergency services, for avoiding undue congestion, and for providing for the safety and convenience of pedestrian and vehicular traffic.
- D. The relationship of the proposed use to other activities existing or planned in the vicinity shall be harmonious in terms of location and size relative to the proposed operation and the nature and intensity of the operation involved.
- E. The relationship of the proposed use to other activities existing or planned in the vicinity shall be harmonious in terms of the character and height of structures, buildings, walls and fences, so that the use, development and value of adjacent property is not impaired.
- F. The proposed use shall not be more objectionable in its operation in terms of noise, fumes, odors, vibration or lighting that would be the operations of any permitted use in the district.
- G. The submission of an Environmental Impact Statement in accordance with Section 706 of this Ordinance, and all subsections thereunder.
- H. The submission of any reports and/or studies within the context of the definition "Impact Analysis" as contained within Article 2 of this Ordinance, which conclusively demonstrates that the proposed use or development will not have a negative impact upon the particular subject or subjects as defined by the Board of Supervisors including but not limited to the interest of protecting the health, safety and welfare of the public and environmental features and characteristics of the site and/or surrounding areas. In their review of an Impact Analysis, the Board of Supervisors shall have the discretion to retain the services of firms or agencies which have expertise within the subject or subjects addressed therein. All fees and costs incurred for such consultation by the Township shall be reimbursed by the applicant.

SECTION 705**CLASSIFIED CONDITIONAL USES**

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

1. Solid Waste Facilities
2. Any use permitted by right or special exception, involving the initial or cumulative disturbance of 87,120 or more square feet of surface area, including but not limited to, the excavation of land, grading and/or the backfilling of land not related to the extraction of natural resources.
3. Any use permitted by right or special exception, involving the initial or cumulative construction, installation or placement of 43,560 or more square feet of buildings, structures and/or other impervious surface areas.
4. Any use which is directly or indirectly involved with processing and/or treating any type of organic, inorganic and/or inert material for the purpose of changing and/or altering the composition of certain chemical properties within the material and/or the quantity of certain chemical levels within the material, regardless of whether or not the processing and/or treatment alters the physical composition of the subject material.
5. The use, reuse, deposit and/or disposal of material following the processing and/or treatment of the same as provided for under Item # 4 of this Section, regardless of whether or not the subject material originated from Foster Township and/or was processed/treated in Foster Township. The backfilling of any land with such material, with or without any proposed further development of the site, shall be deemed to be included within the context of the use, reuse, deposit and/or disposal of material.
6. Extraction, excavation, removal and/or surface mining of coal and/or coal by products.
7. Extraction, excavation and/or removal of natural resources.
8. Adult Uses (as defined in Article 2).
9. Heavy Industry, (as defined in Article 2).
10. Mobile Home Park, including the expansion of existing mobile home parks.
11. Sewage Treatment Facilities
12. Planned Residential Developments
13. Commercial Recreational Facilities (B-3, A-1 and C-1 Zoning Districts)*
14. Public Recreational Facilities (A-1 and C-1 Zoning Districts)*
15. Private Recreational Facilities (A-1 and C-1 Zoning Districts)*
16. Transfer Stations (as defined in Article 2).
17. Staging Areas (as defined in Article 2).
18. Automotive Wrecking Yards (as defined in Article 2).
19. Junk Yards (as defined in Article 2).

*** Denotes uses which are permitted by right in a B-2 Zoning District**

SECTION 706

ENVIRONMENTAL IMPACT STATEMENT

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

706.01. SOIL TYPES

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

706.02 SURFACE WATERS

- a. Distance of site from the nearest surface water and head waters of streams.
- b. Sources of runoff water.
- c. Rate of runoff from the site.
- d. Destination of runoff water and method of controlling down stream effects.
- e. Chemical additives to runoff water on the site.
- f. Submission of a soils erosion and sedimentation control plan meeting the requirements of the Luzerne County Conservation District.
- g. A storm water management plan which shall be developed in coordination with the soils erosion and sedimentation plan.

706.03 **GROUND COVER INCLUDING TREES**

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

706.04 **TOPOGRAPHY**

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

706.05 **GROUND WATER**

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

706.06 **WATER SUPPLY**

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

706.07 **SEWAGE SYSTEM**

- a. Sewage disposal system (description and location on the site of system).

- b. Expected content of sewage effluents (human waste, pesticides, detergents, oils, heavy metals, other chemicals).
- c. Projected daily volumes of sewage.
- d. Affected sewage treatment plants present capacity and design capacity.

706.08 **SOLID WASTE**

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

706.09 **AIR QUALITY**

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

706.10 **NOISE**

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

706.11 **IMPACT OF PROPOSED USE/DEVELOPMENT**

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

- a. Existing plant species, (upland and marine), and effects thereon.
- b. Existing animal species and effects thereon.
- c. Existing wild fowl and other birds and effects thereon.
- d. Effects of drainage and runoff.

- e. Effects on ground water quality.
- f. Effects on surface water quality.
- g. Effects on air quality.
- h. Alternatives to proposed use/development, consistent with the zoning of the site.
- i. Effects on sites of historic significance.
- j. Projected amount and type of traffic to be generated and the effects of the same on public roads and highways.

706.12 **IMPACT UPON CRITICAL AREAS**

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

706.13 **OTHER GOVERNMENTAL JURISDICTION**

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

706.14 **REVIEW PROCEDURE OF ENVIRONMENTAL IMPACT STATEMENT**

- A. Upon receipt of an Environmental Impact Statement, the Board of Supervisors shall promptly forward the Environmental Impact Statement to the Township Planning Commission, the Township Planning Consultant, the Township Engineer and any other agency, firm or individual which the Board of Supervisors may desire for their consultation and input.
- B. The Planning Commission shall review the applicant's Environmental Impact Statement and provide the Board of Supervisors with its comments and recommendations within thirty (30) days from the date of its submission to the Planning Commission.

- C. The Board of Supervisors shall have the discretion to retain the expertise of appropriate parties in their review of the Environmental Impact Statement. All fees and costs incurred for such consultation shall be paid by the applicant.
- D. A determination by the Board of Supervisors of a potential adverse impact which may result shall constitute sufficient basis for the denial of a conditional use permit.

SECTION 707 **SUPPLEMENTARY REGULATIONS FOR CONDITIONAL USES**

707.1 **SOLID WASTE FACILITY**

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

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

providing such evidence shall jointly sign and certify the accuracy and validity of the information and data which is provided as conclusive evidence.

- E. Any application for a Conditional Use Permit for a solid waste facility, which includes the operation of a landfill, shall include a proposed reuse of the property and/or area utilized as a landfill upon the cessation of landfill activities. The proposed reuse of the property shall not be inconsistent with the Comprehensive Plan of Foster Township and land uses, existing and planned, on property which adjoins the site of the Facility.
- F. The applicant shall be required to create an escrow fund to finance the proposed and planned reuse and development of any area utilized as a landfill based upon the projected life expectancy of any area within the solid waste facility which is utilized as a landfill. Such fund shall be funded while the property is still being used for a landfill with annual increment payments. The annual increment payment shall be based upon the estimated cost of the proposed reuse of the site divided by the number of years which the landfill is expected to operate. Such fund shall be separate and distinct from any funding and/or bonding requirement pursuant to closure activities.
- G. A solid waste facility may conduct and operate all approved functional aspects within the Facility from the hours of 7:00 A.M. to 3:00 P.M. from Monday through Friday. Said Facility shall not conduct and/or operate any approved functional aspects associated with the Facility on Saturdays, Sundays and all legally recognized holidays by the federal government and/or the Commonwealth of Pennsylvania.
- H. The entire site of a solid waste facility shall be enclosed with industrial type gauge fencing which shall be ten (10') feet in height. All gates shall be closed and locked at the end of business hours. There shall be no advertising of any kind displayed upon the fence.
- I. No operations and/or activities permitted within a solid waste facility shall be permitted within one thousand (1,000) feet of any property line boundary and/or within two thousand-five hundred (2,500) feet of any residences and/or zoning district in which residences are a permitted use.
- J. All solid waste facilities and staging areas which store the solid waste at any stage prior to disposal at an approved facility shall maintain the aforesaid solid waste within a completely enclosed building. Storage of materials, supplies or solid waste in motor vehicles, trucks, trailers or other containers normally used to transport the materials shall not be permitted unless the aforesaid motor vehicles, trucks, trailers or other containers shall be stored within a completely enclosed building.

- K. A solid waste facility shall provide for treatment and disposal of all liquid effluent and discharges generated by the facility due to the storage, washing or other process used in treating and/or processing the solid waste. Any water discharge from the facility after being treated by the waste water treatment system shall meet all applicable regulations and requirements of the Pennsylvania Department of Environmental Resources.
- L. All storm water collected on the site shall be treated by the facility's waste water treatment system. Parking of motor vehicles containing solid waste or motor vehicles which have not been properly cleaned and washed shall only be permitted in completely enclosed buildings, handling areas or parking areas in which containment of spillage, leakage or other contaminants is provided.
- M. The owner and/or operator of any solid waste facility shall be required to monitor the ground and surface water in the vicinity of the facility. Water testing shall be conducted every three (3) months on any stream within 500 feet of any areas used for the storage or disposal of solid waste, if water drainage from the facility is discharged into said stream. For each testing period two (2) testing samples shall be collected: one sample shall be taken from the stream at a point upstream of the facility drainage area and one sample shall be taken from the stream at a point below the facility drainage area. In addition, the well location, if applicable, located on the premises shall also be sampled every three (3) months. All water samples shall be collected and analyzed by an independent party which is a certified water analysis laboratory for hydrocarbons or other parameters deemed appropriate by the Township Supervisors, and the results shall be provided to the Township. If said samples exceed the limits established by the Pennsylvania Department of Environmental Resources, the facility shall immediately cease operation until such time as the source of the contamination has been identified and totally corrected.
- O. The area or areas upon which any permitted operations and/or activities within a solid waste facility are conducted shall be entirely screened. Such screening shall consist of a variety of evergreen trees, approved by the Board of Supervisors, planted not more than six (6') feet apart and being not less than eight (8') feet in height at the time of planting. Said screening shall be located not greater than three hundred (300') feet from the operations and/or activities which are subject to being screened. The applicant and/or operator of the Facility shall be responsible to maintain such screening, including the replacement of any trees which are damaged, die or otherwise fail to grow.
- P. The applicant shall provide a detailed narrative which fully describes the daily operations of all permitted functions and activities within the proposed solid waste facility, including the projected daily volume and tonnage of refuse being accepted for processing and/or disposal.

- Q. The applicant shall submit to the Board of Supervisors, a copy of their commercial policy of liability insurance covering third party claims for property damage and personal injury.
- R. Vehicular access for ingress, egress and regress to a solid waste facility shall be solely limited to private access roads, constructed in accordance to the design standards of a collector street as so provided within Section 808, Section 809, Section 817.1 and Section 817.4 of the Foster Township Subdivision and Land Development Ordinance. Such private access roads shall only have access to a state legislative route with no permitted access to or from any local streets and/or roads.
- S. The owner and or operator of a solid waste facility shall provide an emergency response plan to address potential hazards associated with its operations. Said plan shall be submitted for review and comment to the local fire companies which serve Foster Township.
- T. Any solid waste facility which processes sludge, prior to its final disposal, shall be designed to include a liner in accordance with the applicable standards of the Department of Environmental Resources for the liner within a proposed landfill.
- U. Any solid waste facility which includes incineration shall be designed and operated in a manner to limit emissions by not less than ten (10%) percent below the applicable allowable emission standards of the Department of Environmental Resources or the Environmental Protection Agency, based upon the more restrictive regulations for reducing and/or limiting air pollution. Any emissions stack or similar structure shall not exceed one hundred-fifty (150) feet in height.
- V. The applicant shall in addition to other required information and data provide an "Impact Analysis" which address the impact of the proposed operation and activities of a solid waste facility in relationship to the following items:
1. All streets and roads which shall and/or are likely to be utilized for means of access to and from the site, including projected truck traffic which shall be generated in relationship to the projected daily volume of waste being transported to the solid waste facility.
 2. The suitability of the site for the proposed operations and activities of the solid waste facility in relationship to the soils, slopes, woodlands, wetlands, flood plains, aquifers, natural resources and other natural features which are located both on-site and off-site of the Facility.
 3. The impact, both on-site and off-site, of the proposed operations and activities of the solid waste facility on the soils, slopes, woodlands, wetlands, flood plains, aquifers, natural resources and other natural features regarding the degree to which these are protected or destroyed,

the tolerance of these resources to the proposed development and any adverse environmental impacts.

4. The impact of the proposed operations and activities of the solid waste facility upon any locations and/or structures of historical and/or cultural significance within 3,000 feet to any property boundary line of the Facility.
5. The impact of the proposed operations and activities of the solid waste facility upon the preservation of agriculture and other land uses which are essential to the public health and welfare.

707.11 MITIGATION OF ADVERSE IMPACTS

In the event that any information, data, and/or "Impact Analysis" indicates a projected and/or potential adverse impact, the applicant shall fully mitigate such impact. A determination of a potential adverse impact which may result, based upon the Environmental Impact Statement or the Board of Supervisors' review of the same shall constitute sufficient basis for the denial of a conditional use permit.

707.12 LAND DEVELOPMENT APPROVAL REQUIRED

In addition to the regulations contained within this Article, a solid waste facility shall be subject to the applicable regulations and provisions as contained within the Foster Township Subdivision and Land Development Ordinance. The application process for a Conditional Use Permit and a land development may be submitted concurrently by the applicant.

707.13 HOST MUNICIPALITY FEE

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

SECTION 707.2 EXCAVATION OF NATURAL RESOURCES

Extraction, excavation, removal and/or surface mining of coal and/or coal by products and the extraction, excavation and/or removal of other natural resources including sand, gravel, rock, topsoil and peat moss shall be considered a temporary use. New excavations shall include any proposed site for which a permit and/or approval has not been issued by Foster Township. New excavations for the extraction of coal shall be permitted in only a I-1 Zoning District. New excavations for the extraction of other natural resources shall be permitted in an A-1, C-1, and I-1 Zoning Districts.

COAL MINING

In the case of coal mining, new extraction, excavation, removal and/or surface mining shall be defined as any area not physically engaged in such activities on the date this Ordinance takes effect. Applications for the extraction, excavation, removal and/or surface mining of coal or coal by products shall not exceed ten (10) acres in area on any lot and shall be subject to the following requirements:

- A. Map: Submission of a map which outlines the entire proposed area subject to be the proposed extraction, excavation, removal and/or surface mining of coal or coal by products. Said map shall contain surface features showing the location of buildings, dwellings, places of worship, schools, railroads, highways and lot lines of public and semipublic uses within a distance of 1,000 feet from the perimeter of the proposed use. In addition, said map shall indicate the proposed maximum depth of any excavation.
- B. Bond, Backfilling and Fees: The applicant shall provide documentation that all applicable State requirements relative to providing a bond which guarantees the restoration and backfilling any land proposed to be excavated or otherwise disturbed has been secured.
- C. Insurance: That a Certificate of Insurance with limits of \$100,000 per person and \$300,000 per accident for personal injuries, and \$300,000 for property damage, be filed with the Board of Supervisors both for the benefit of all persons who might be injured or suffer property damage as a result of said mining operations, and to save Foster Township and its Officials harmless from any and all claims, suits or demands caused any coal operation.
- D. Supervision of Blasting: The use of explosives for the purpose of blasting in connection with coal operations shall be undertaken in accordance with regulations promulgated by and under the supervision of a representative of the Pennsylvania Department of Environmental Resources.
- E. Distance Provisions: The perimeter of any excavation under this Section shall not be nearer than 1000 feet from any building, property line or street, except that owned by the excavator.
- F. Timing: Blasting in any coal operation shall occur only between the hours of 9:00 A.M. and 4:00 P.M. local time. The applicant shall provide the Township with not less than a twenty-four (24) advance notice.
- G. Location of Processing Equipment: To reduce airborne dust, dirt and noise, all structures for sorting, crushing, grinding, loading, weighing, washing and other operations shall be not less than 1000 feet from the right-of-way of any street, and/or 1000 feet from any residential building or the boundary of a residential zoning district.

- H. Drainage: All excavations both during operations and after completion shall be adequately drained to prevent the formation of pools of water. Adequate measures shall be taken prior to any excavation and fully documented prior to approval of the coal operation.
- I. Compliance With State Requirements: Final and/or unconditional approval under the provisions of this Ordinance will not be issued until the required license or permit has been properly secured from the Pennsylvania Department of Environmental Resources.

707.3 ADULT USES

No adult use, as so defined in Article 2 of this Ordinance, shall be located less than 1,000 feet from any of the following uses:

1. A residential dwelling.
2. A place of worship
3. A public or quasi-public use or structure.
4. A zoning boundary of any residential zoning district.

Measurements of the required distance shall be made in a straight line, from the nearest portion of the structure or premises of an adult use, to the nearest property line of the above noted uses. The structure and/or premises of an adult use, including all off-street parking areas shall be completely enclosed by a fence, not less than eight (8') feet in height and screened by a variety of evergreen trees which shall be planted not more than six (6') feet apart and being not less than eight (8') feet in height at the time of planting. The owner of the property shall be responsible to maintain such screening, including the replacement of any trees which are damaged, die, removed by whatever means or otherwise fail to grow.

707.4 MOBILE HOME PARKS

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

- A. All mobile home parks shall have a total land area of not less than ten (10) acres.

- B. All mobile home parks shall be located on well drained land with the average natural slope not exceeding ten (10%) percent.**
- C. All mobile home parks shall have access to public streets or roads.**
- D. All mobile home parks shall be serviced by an off-site sewage disposal system and a central water supply and distribution system.**
- E. Mobile homes shall not be located on sites so that any portion of any mobile home is closer than thirty (30') feet to any portion of any other mobile home or permanent building within the mobile home park.**
- F. Access to mobile home sites shall be from interior driveways, access drives, or private streets and shall not be from public street or roads. Entrance roads shall have a paved cartway width of at least twenty-four (24') feet.**
- G. Every mobile home site shall be provided with a minimum of two (2) off-street parking spaces.**
- H. All mobile home parks shall be provided with pedestrian walkways on at least one side of every street.**
- I. Each mobile home site shall have a minimum area of not less than 3,000 square feet and a minimum lot width of not less than fifty (30') feet. The minimum front, rear and side setback for any mobile home shall be ten (10') feet.**
- J. Every mobile home park shall provide a defined recreational site or sites which shall contain an area of land not less than five (5%) percent of the total gross land area within the boundaries of the mobile home park. All recreational sites shall be located in areas which are readily accessible to all residents of the mobile home park. A recreational development plan shall be provided which identifies passive and active recreational features to be provided upon the site, including recreational equipment, play apparatus, benches, and all other features and facilities to be incorporated into the design of the recreational site. The location of the recreational site and the recreational development plan shall be subject to the review and approval of Board of Supervisors. The recreational site must be identified and approved by the Board of Supervisors prior to final approval of the development or expansion of a mobile home park. To guarantee the installation of all improvements to the site, the applicant shall be required to complete the installation of all such improvements prior to receiving an unconditional final approval or to post an irrevocable letter of credit in the amount of 110% of the estimated cost of improvements. The procedures and standards contained within Section 509 of the Pennsylvania Municipalities Planning Code, Act 247, as amended shall apply to posting the aforementioned irrevocable letter of credit. The procedures and standards within Section 510 of Act 247, as amended, shall**

apply to the release of the irrevocable letter of credit upon the completion of the required improvements. The applicant shall be required to reimburse the Township for any engineering fees associated with the inspection of improvements to the site. Said reimbursement must be paid at the same meeting of the Board of Supervisors at which the applicant seeks final and unconditional approval of said improvements.

- K. Each mobile home site shall be provided with a stand or pad consisting of two (2) concrete strips to accommodate the supporting base or foundation of the mobile home.
- L. Every mobile home in the park shall be enclosed from the bottom of the mobile home to the ground or stand using industry-approved skirting material compatible with the home.
- M. Every mobile home shall be securely anchored or tied-down on at least the four (4) corners and/or in accordance with the manufacturer's recommendations furnished with each home.
- N. The owner/operator of each mobile home park shall provide a refuse disposal plan.
- O. An approved soils erosion and sedimentation plan and a stormwater management plan shall be required prior to the unconditional approval for the development or expansion of a mobile home park.
- P. An approved Department of Environmental Resources Planning Module shall be required prior to the unconditional approval for the development or expansion of a mobile home park.

SECTION 708 CONDITIONAL USE APPLICATION FEE

As part of the Conditional Use Application fee, which shall be established by resolution, the applicant shall be responsible to reimburse the Township for all reasonable and necessary consulting fees which are incurred by the Township to review plans, reports, data, studies and any other information related to an application for a Conditional Use Permit.

ARTICLE 8

SUPPLEMENTAL REGULATIONS

SECTION 801 PURPOSE AND INTENT

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

SECTION 802 USE REGULATIONS

802.01 ANIMAL HOSPITAL

An animal hospital shall maintain all activities within a completely enclosed soundproof building, and no objectionable odors shall be vented outside the building. No animal hospital shall be located less than twenty-five (25') feet from any property line.

801.02 ANIMAL KENNELS

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

802.03 AUTOMOBILE RELATED ACTIVITIES

- A. Automotive Repairs (Repair Garage): Activities including the repair of automobiles, trucks, snowmobiles and motorcycles shall be conducted within a completely enclosed building where adequate measures shall be taken to minimize noise, vibrations, fumes and glare. Only vehicles to be repaired on the premises or picked up by the vehicles' owner may be stored in the yard area. Where the operation abuts on the side or rear property line of a district having residences as a principal permitted use, a solid wall or substantial attractive fence six (6') feet in height shall be constructed and maintained in good condition along such boundary. Outside lighting shall be directed away from adjacent properties.
- B. Automotive Sales: The outdoor display of new or used automobiles, panel are conducted within a completely enclosed building designed and constructed to minimize noise, fumes, vibrations and glare. Where an automotive sales use abuts a rear or side lot line of any district having

residences as a principal permitted use, a solid wall or substantial, attractive fence six (6') feet in height shall be constructed and maintained in good condition along such boundary. Outside lighting shall be directed away from adjacent properties.

- C. Car Wash: Appropriate drainage facilities for washing activities shall be provided. The site shall be sufficiently large to accommodate three (3) cars per stall awaiting washing during peak periods so that lines along public streets are avoided. Such operations shall also comply with any applicable regulations of the Pennsylvania Department of Environmental Resources. Car wash operations abutting on the side or rear property lines of a district having residences as a principal permitted use shall provide a solid wall or substantial, attractive, tight fence being six (6') feet in height and well maintained along such boundary. Outdoor lighting shall be directed away from adjacent activities.

- D. Gasoline Service Stations: When a service station abuts on the rear or side lot line of a district having residences as a principal use, a solid wall or substantial attractive fence being six (6') feet in height shall be constructed and maintained in good condition along such boundary. When a service station occupies a corner lot, the access driveways shall be located at least sixty (60') feet from the intersection of the front and side street lines of the lot. All access driveways shall not exceed twenty-five (25') feet in width. Gasoline pumps or other service appliances may be located in the required front yard not to exceed fifteen (15') feet. All repairs, service, storage or similar activities in connection with the use shall be conducted within the building where adequate measures shall be taken to minimize noise, fumes and glare. Outside lighting shall be directed away from adjacent properties

802.04. BANKS

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

802.05 BOARDING HOUSE

The property shall maintain all yard areas for the zoning district in which it is located and shall be limited to providing lodging for not more than four (4) persons, excluding the owner of the property. Off-street parking spaces shall be provided for each boarder.

801.06

BULK FUEL STORAGE

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

802.07

CONTRACTORS' STORAGE YARDS

Commercial or industrial uses utilizing outdoor storage space which exceeds an area of more than two thousand (2000) square feet shall be located on a tract of land of not less than twenty-five thousand (25,000) square feet. Supplies stored outdoors shall be neatly arranged and no required yard areas shall be used for storage. There shall be a roadway fourteen feet in width provided for in every forty linear (40) feet of stored materials. The roadway shall be kept passable for fire-fighting equipment. Where the operation abuts on the rear or side lot line of a district having residences as a principal permitted use, a solid wall or substantial fence being six (6') feet in height shall be constructed and maintained in good condition along such boundary. Outside lighting shall be directed away from adjoining properties.

802.08

CEMETERIES

A structure, grave or place of permanent burial shall be set back not less than fifty (50') feet from the property line. The cemetery shall be enclosed by a fence, wall or shrubbery at least three (3') feet in height. The interior roads shall have a minimum width of twelve (12') feet and shall be properly maintained with either gravel or paving.

802.09

CONVENIENCE STORE WITH GASOLINE PUMPS

The property shall have a lot area of not less than twenty-five thousand (25,000) square feet. The principal structure as well as the canopy over gasoline pumps shall meet all the minimum setback requirements for all yards in the district in which it is located. Where the operation abuts on the rear or side lot line of a district having residences as a principal permitted use, a solid wall or substantial fence being six (6') feet in height shall be constructed and maintained in good condition along such boundary. A parking area accommodating all spaces required by Article 11 shall be provided. Access driveways shall be no more than twenty-five (25) feet wide at the street line, and in the case of a corner lot, access driveways shall be at least sixty (60) feet from the intersection of the two streets, as measured from the right-of-way line. All lighting shall be directed away from adjoining property.

802.10 **CHILD CARE FACILITIES**

All day care facilities, as so defined in Article 2 of this Ordinance, shall comply with the following:

- A. The applicant or owner shall provide evidence of certification of compliance with all appropriate regulations of any designated State agency whose approval is required by the laws of the Commonwealth.
- B. Noise and all other possible disturbing aspects connected with such use shall be controlled to the extent that the operation of such use shall not unduly interfere with the use and enjoyment of properties in the surrounding area.
- C. All outdoor play areas shall be completely enclosed with a fence being six (6') feet in height. Outdoor play activities shall be limited to the hours between 10:00 A.M. to 5:00 P.M. local time.
- D. The applicant shall provide evidence that vehicular traffic congestion will be avoided in "pick-up and drop-off points" utilized in transporting children to and from the facility.

802.11 **DWELLING OVER OR ATTACHED TO A BUSINESS ESTABLISHMENT**

Dwellings units may be permitted over or attached to business establishments in any zoning district. Such dwellings shall have private access and the required residence parking spaces in addition to commercial parking spaces as required by Article 11.

802.12 **EATING AND DRINKING ESTABLISHMENTS (INCLUDING NIGHT CLUBS AND RESTAURANTS)**

All eating and drinking establishments shall meet the parking requirements as set forth in Article 11 of this Ordinance. Access drives shall not exceed twenty-five (25') feet in width and for those establishments located on a corner lot, no access drive shall be located less than sixty (60') feet of an intersection, as measured from the right-of-way lines, from the intersection of the two abutting streets. Outside lighting shall be directed away from adjacent properties.

802.13 **ENTERTAINMENT FACILITIES**

Entertainment facilities as defined in Article 2 of this Ordinance shall provide proper parking areas with vehicular circulation and access designed to minimize any potential traffic congestion. Such facilities shall not be closer than twenty (20') feet from any

boundary of a district having residences as principal permitted use, shall provide adequate screening from any residential district, and shall be conducted entirely within an enclosed structure.

802.14 **FUNERAL HOME**

Funeral homes shall accommodate all of the parking areas required as provided in Article 11 of this Ordinance. In addition, sufficient area shall be provided for vehicular circulation on the lot and for the assembly area for the procession beyond the street right-of-way line. Points of vehicular access to the site shall not create traffic hazards on the street. Loading and unloading areas for ambulances and hearses shall be within an enclosed building or shall be screened from view from adjacent properties by a solid wall or substantial, attractive fence being six (6') feet in height. Outside lighting shall be directed away from adjacent properties.

802.15 **GROUP RESIDENCE**

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

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

802.16 **HELIPORT AND HELISTOP**

- A. Minimum Lot Size: A lot size of not less than ten acres shall be required.
- B. Landing/Take-off Area and Surface:

- (1) Said surface shall be paved and free from dust and other material which could be blown onto adjoining properties by air wash.
 - (2) A helistop intended to be used for night landing or take-off shall be provided with flood lights and also with linear perimeter lighting of fluorescent or cold cathode type, or by amber light spaced around the helipad, approximately twenty feet apart.
 - (3) Every landing/take-off area shall be so located and designated as to provide clearance of all obstructions above rotor height for a distance of twenty-five feet in each direction of the landing area.
- C. Use of Site: Limited to persons owning occupancy or employed on the premises and their visitors and guests.
- D. Fencing: The entire perimeter of the landing/take-off area shall be enclosed by a fence not less than eight feet in height to prevent unauthorized entry onto the landing area.
- E. Types of Helicopters: The types of helicopters allowed shall be jet-powered, unless it is determined that a different type of helicopter will result in a comparable or lesser noise level in accordance with the Federal Aviation Administration rules and regulations with proper respect to gasoline-fuel injected or jet-powered types.
- F. Hours of Operation: As approved by the Federal Aviation Administration as may be required by said agency's regulations.
- G. Licenses and/or Approval: Licenses and/or approval shall be issued in accordance with the Federal Agency Administration regulations and/or the Bureau of Aviation, Pennsylvania Department of Transportation regulations.
- H. Limitations and Additional Requirements: Limitations on the number and/or frequency of flights, as well as ingress and egress routes and any other conditions or determinations which the Federal Aviation Administration or the Pennsylvania Department of Transportation considers appropriate shall govern.
- I. Setback Requirements for Landing Areas: A distance of not less than fifty feet shall be required from a landing/take-off area to the nearest property line, street or building; if a landing/take-off area is to be located within 300 feet of any residential structure or zoning district which permits residences as a permitted use, the applicant shall be required to submit noise tests conducted on the applicant's proposed landing/take-off area by an independent acoustical consultant utilizing approved sound testing equipment. No permit shall be issued for a helistop if the acoustical test results indicate a negative impact upon adjoining residential uses or any other type of property within a 300 feet radius of any proposed landing/take-off area. The applicant shall be responsible for all costs necessary for acoustical testing.

- J. Fuel Storage: All DER fuel storage rules and regulations shall govern.

802.17 HOME OCCUPATIONS

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

- A. The occupation shall be carried on wholly indoors, within the principal building or within a building accessory thereto.
- B. There shall be permitted a sign, not to exceed two (2) square feet in surface area, placed flat against the building as a wall sign, and shall not be permitted above the first story level. No other exterior display or exterior storage of materials or any other exterior indication of the home occupation shall be permitted.
- C. There shall be no maintenance of a stock in trade or show windows or displays or advertising visible outside the premises.
- D. No articles shall be sold or offered for sale except those which are produced on the premises.
- E. There shall be no repetitive servicing by truck.
- F. No offensive noise, vibration, smoke, dust, odors, heat or glare shall be produced.
- G. The home occupation shall be carried on only by members of the immediate family residing in the dwelling unit, plus not more than two (2) additional employees. Licensed medical practitioners and attorneys may have more than two (2) additional employees, subject to approval by the Zoning Hearing Board.
- H. The floor area devoted to a home occupation, regardless of where located on a lot, shall be equivalent to not more than twenty (20%) percent of the floor area of the dwelling unit.
- I. Each home occupation shall have off-street parking as indicated below, in addition to that required for the dwelling unit:
 - (1) Four (4) spaces for each physician, dentist, or other licensed medical practitioner.
 - (2) Two (2) spaces for all other home occupations.

In addition to the applicable requirements of this Ordinance, all industrial activities and uses permitted by right, special exception and/or conditional use within the I-1 District shall comply with all regulations governing odors, fumes, dust, smoke, vibration, noise, sewage, industrial waste, fire hazards and any other of the activities and uses with side effects are deemed injurious to the public health, safety and welfare by the United States Environmental Protection Agency (EPA), the Pennsylvania Department of Environmental Resources (DER) and the Pennsylvania Department of Labor and Industry. It shall be the responsibility of the applicant to provide the Zoning Officer with a complete listing of all State and federal regulations governing the proposed use and written compliance from the governing

All junk yards and automotive wrecking yards existing at the effective date of this Ordinance shall comply within one (1) year after the adoption thereof. All new junk yards and automotive wrecking yards shall comply with the following:

- A. Such premises shall at all times be maintained so as not to constitute a nuisance or menace to the health of the community or residents nearby or a place for the breeding of rodents and vermin.
- B. Burning of any materials shall be prohibited.
- C. No oil, grease, tires or gasoline shall be burned at any time.
- D. No garbage, organic waste, rubbish, toxic materials and hazardous materials shall be stored on such premises.
- E. Whenever any motor vehicle shall be received on such premises as junk, all gasoline and oil shall be drained and removed therefrom.
- F. The storage of any combustible materials, such as gasoline, oil or related items, shall be placed in fireproof containers and stored within fireproof sheds.
- G. The manner of storage and arrangement of junk and the drainage facilities on the site shall be such as to prevent the accumulation of stagnant water upon the premises. A storm water drainage plan shall be required.
- H. There shall be no stockpiling of motor vehicles, nor shall there be any junk piled higher than four (4') feet.

- I. There shall be a roadway fourteen (14') feet in width provided for every forty (40) linear feet of junk. The roadway shall be kept open and unobstructed for proper access for fire fighting equipment and safety purposes.
- J. Junk shall not be stored within one hundred (100') feet of any adjoining property line or nearer than one hundred (100') feet to any adjoining or abutting street.
- K. All junk yards shall be completely screened from view on all sides by a buffer area as so defined in Article 2 of this Ordinance. The required fence shall be not closer than twenty (20) feet to any property line.
- L. Such premises may be open for business or any work in connection with the storage, processing and transportation or removal of junk only on Monday, through Saturday from 8:00 A.M. to 4:00 P.M., local time.

802.20 MOTELS AND HOTELS

Motels and Hotels shall uses shall require a minimum lot size of not less than two (2) acres with a lot width of not less than two hundred (200) feet. The following requirements shall also apply:

- A. There shall be more than ten (10) sleeping rooms.
- B. Fifty (50%) percent or more of the gross floor area shall be devoted to sleeping rooms.
- C. There may be club rooms, ballrooms, and common dining facilities.
- D. In the case of a corner lot, access drives shall be not less than sixty (60) feet from the intersection of any two streets as measured from the intersection of their right-of-way lines.

802.21 NONPROFIT SOCIAL HALLS, CLUBS AND COMMUNITY CENTERS

Buildings utilized for such purposes shall not be less than ten (10') feet from the property line, nor shall any designated parking area be within ten (10') feet from a property line.

802.22 OUTDOOR STORAGE

Outdoor storage, as defined in Article 2, when proposed as a principal use of land shall require a minimum lot size of one acre. The entire area to be utilized for storage shall be enclosed with a chain link fence being six (6') feet in height. A storm drainage plan shall be required with the submission of a site plan, zoning application and a complete listing of all types of items to be stored therein.

802.23 **PLACE OF WORSHIP:**

A parking area shall accommodate all parking spaces as required in Article 11 of this Ordinance. Access driveways shall be not greater than twenty-five (25') feet in width. In the case of a corner lot, access driveways shall be not less than sixty (60') feet from the intersection of the two streets, as measured from the intersection of their right-of-way lines. Where the parking area abuts existing residences on the side or rear property line, a buffer area, consisting of shrubbery or evergreen trees, being not less than four (4) feet in height at the time of planting, shall be provided.

802.24 **PUBLIC USES**

A. **MUNICIPAL, POLICE AND FIRE BUILDINGS:** Where the parking area abuts the side or rear property lines of an adjoining residential use, a fence being six (6') feet in height and a buffer area consisting of shrubbery or evergreen trees shall be provided.

B. **PUBLIC AND PRIVATE SCHOOLS:** The size of a lot shall meet the minimum requirements as prescribed by the Pennsylvania Department of Education. Access to the site shall be from an arterial or collector street. Access driveways shall not exceed twenty-five (25') feet in width. In the case of a corner lot, access driveways shall be not less than sixty (60') feet from the intersection of the two streets, as measured from the intersection of their right-of-way. Loading and unloading areas, parking areas and circulation shall be provided in accordance with Article 11 of this Ordinance.

802.25 **PUBLIC UTILITY BUILDINGS AND STRUCTURES**

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

- A. Access and parking shall be provided only for maintenance and servicing of such facilities.
- B. A chain-link fence and locked gate not less than eight (8') feet in height shall surround the building or structures of such facilities.
- C. A buffer area not less than ten (10') feet in depth and comprised of trees and/or shrubs designed to conceal such buildings or structures of such facilities.
- D. Outside lighting shall be directed away from adjacent properties.

- E. The location, design and operation of such facilities shall not adversely affect the character of any adjacent residential properties.

802.26 RECREATIONAL FACILITIES - (OUTDOORS)

All such facilities, whether public, private or commercial, shall conform to the following regulations:

- A. No outdoor recreation activity shall be conducted closer than fifty (50') feet to any property line.
- B. A buffer area, at least ten (10') feet in depth and planted with trees, shrubs or other landscaping, shall surround the property except for access drives.
- C. Access drives shall be not greater than twenty-five (25') feet in width; parking areas shall not be located within buffer areas.
- D. Storm drainage from the site shall be channeled to natural drainage courses and away from adjoining properties.

802.27 SEWAGE DISPOSAL AND SEWAGE TREATMENT PLANTS

The location and operation of a public or private sewage disposal and/or sewage treatment plant shall be in full compliance with the applicable regulations of the Pennsylvania Department of Environmental Resources. Written approval from DER shall be secured prior to the installation of such facilities.

802.28 SINGLE RESIDENTIAL STRUCTURES, CONTAINING MULTIFAMILY DWELLING UNITS

Such structures shall contain not more than four (4) dwelling units. A lot area of two thousand five hundred (2,500) square feet shall be required for each dwelling. A minimum lot width of not less than one hundred (100) feet shall be required. Each sideyard shall have setback of not less than fifteen feet.

802.29 TOWNHOUSES AND GARDEN APARTMENTS

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

- A. Minimum lot width shall be 150 feet.
- B. Maximum percentage of building coverage on a lot per dwelling unit, exclusive of common or public open areas, shall be 30%.

- C. Minimum lot width per dwelling unit shall be 20 feet.
- D. Minimum lot depth per dwelling unit shall be 100 feet.
- E. Minimum lot area per dwelling unit shall be 2,000 square feet.
- F. Minimum front yard setback shall be 25 feet.
- G. Minimum side yard setbacks shall be 20 feet. Side yard setbacks shall be required only at the ends of rows of attached dwellings.
- H. Minimum rear yard setback shall be 25 feet.
- I. Maximum density shall be 1 unit per each 5,000 square feet of land area.
- J. Minimum width of each dwelling unit shall be 20 feet.
- K. Maximum building height shall be 3 stories or 35 feet.
- L. Minimum distance between principal structures shall be 30 feet.
- M. Minimum front yard setback for off-street parking areas shall be 15 feet.
- O. Minimum side yard setbacks for off-street parking areas shall be 15 feet.
- P. Minimum rear yard setbacks for off-street parking areas shall be 15 feet.
- Q. Two (2) off-street parking spaces shall be provided for each dwelling unit.
- R. Unattached accessory structures such as pools, garages, carports and sheds shall be prohibited in the front yard. Unattached accessory structures located in the side or rear yard shall have five (5) feet side and rear yard setbacks. Attached accessory structures shall have the same setbacks as required for principal structures.

802.30 TRUCKING FACILITIES

The property shall not be less than four (4) acres in area. Access drives shall be no more than twenty-five (25') feet in width; parking and loading areas shall conform to the regulations within Article 11. Where the operation abuts on the rear or side lot lines of a zoning district containing residences as a principal permitted use, a solid wall or substantial, attractive fence not less than eight (8') feet in height shall be constructed and maintained in good condition along such boundary. No truck parking or terminal operation shall be allowed within fifty (50') feet of any lot line. Outside lighting shall be directed away from adjacent properties.

802.31

WAREHOUSE AND DISTRIBUTION FACILITIES

All materials shall be stored within a completely enclosed building and yard areas shall be kept clear of junk, trash or other types of debris. Access drives shall not exceed twenty-five (25') feet in width; parking and loading areas shall conform with the regulations of Article 11 of this Ordinance. No warehouse activities, including parking and/or loading areas, shall be allowed within twenty (20') feet of any property line abutting a zoning district which allows residences as a principal permitted use.

802.32

WAREHOUSE (SELF-STORAGE)

These facilities may be a building or group of buildings in a controlled-access and fenced compound, containing varying sizes of individual compartmentalized and controlled-access stalls or lockers for dead storage of customers' goods and personal property, with storage space available for rental to the general public. All storage shall be contained within a completely enclosed building or buildings. There shall be a minimum spacing of twenty-five (25') feet between buildings for traffic circulation, parking and fire lane purposes. No activities including off-street parking shall be allowed within twenty (20') feet of a property line abutting a district having residences as a principal permitted use. All outside lighting shall be directed away from adjacent properties.

ARTICLE 9

NONCONFORMING LOTS, USES, STRUCTURES AND BUILDINGS

SECTION 901 INTENT

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

SECTION 902 NONCONFORMING LOTS OF RECORD

In any zoning district, structures, both principal and accessory, maybe erected on any single lot of record at the effective date of adoption or amendment of this Ordinance, notwithstanding limitations imposed by other provisions or regulations of this Ordinance, even though such lots fail to meet the requirements for the area and/or width of the zoning district in which such lot is located. The erection of a structure on such a lot shall, however, conform to front, rear and side yard requirements for the zoning district in which such lot is located. Variances from the aforementioned yard requirements may be obtained only through action of the Zoning Hearing Board.

If two (2) or more adjacent lots, with continuous frontage, in single ownership, are lots of record at the effective date of the adoption or amendment of this Ordinance, and if such lots do not meet the required lot area and/or width requirements, such lots shall be considered to be an undivided parcel and no portions of such parcel shall be used or sold in a manner which further diminishes compliance with the required lot area and/or width requirement for the zoning district in which such lots are located.

SECTION 903 CONTINUATION OF NONCONFORMITY

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

SECTION 904 REGISTRATION OF NONCONFORMING USES AND STRUCTURES

The Zoning Officer may prepare and maintain an accurate listing of all nonconforming uses and structures. The Zoning Officer or the property owner may initiate the process of certifying the nonconformity of a given property. The Zoning Officer shall issue a Certificate of Nonconformity where he finds the use or structure, although not in

compliance with all applicable requirements of the zoning district in which it is located, to be a lawful nonconforming use or structure.

SECTION 905 CHANGES OF NONCONFORMING USES

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

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

SECTION 906 ENLARGEMENT OF NONCONFORMING USES AND STRUCTURES

The Zoning Hearing Board may grant a special exception for the enlargement of a nonconforming use and/or structure, if the Board finds the following standards will be met:

- A. The enlargement will not replace a conforming use.
- B. The nonconforming structure and/or use, after enlargement, shall comply with the yard and lot coverage requirements applicable to the zoning district in which it is located.
- C. The use and/or structure, after enlargement, shall comply with all applicable off-street parking and/or loading requirements for said use and/or structure.
- D. Not more than one (1) enlargement of a nonconforming use and/or structure shall be permitted.

- E. A nonconforming structure and/or use shall not be enlarged beyond the limits of the zoning lot on which it is located. Expansion to an adjoining lot shall be prohibited, even if such adjoining lot was in the same ownership at the effective date of the adoption of this Ordinance.
- F. The enlargement shall not exceed twenty-five (25%) percent of the floor area or land area as it existed at the time the structure or use first became nonconforming.

SECTION 907 RESTORATION OF USE

A nonconforming use and/or structure which has been damaged or destroyed by fire, explosion, windstorm, flood or other similar act or cause to the extent of more than sixty (60%) percent of its reproduction value at the time of the damage shall not be restored except in conformity with the regulations of the zoning district in which it is located.

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

A conforming residential use, which is constructed on a lot that is nonconforming with respect to lot area, lot width, and/or yard areas, may be reconstructed on the same lot subject to receiving approval from the Zoning Hearing Board for any necessary variances.

SECTION 908 TERMINATION OF NONCONFORMING USE AND/OR STRUCTURE

908.1 NONCONFORMING USE AND/OR STRUCTURE

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

908.2 CHANGE OF NONCONFORMING USE

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

908.3 ABANDONMENT OF NONCONFORMING USE

The right to a nonconforming use shall be terminated and a nonconforming use shall not be resumed if a nonconforming use is abandoned. A nonconforming use shall be deemed abandoned, if it is changed as set forth in Section 908.2 of this Ordinance or if it is discontinued for a continuous period of one (1) year and the owner of said property fails to obtain a Certificate of Intention in accordance with Section 909 of this Ordinance which indicates his or her intent to resume the nonconforming use.

908.4 NONCONFORMING MOBILE HOMES

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

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

The removal of a mobile home as a conforming use upon a property with the intent to replace it with another mobile home shall be in conformance with all applicable setback requirements and area requirements for zoning district in which it is located.

908.5 UNSAFE STRUCTURES

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

SECTION 909

CERTIFICATE OF INTENTION FOR A NONCONFORMING
USE

A Certificate of Intention shall be required in any instance when a nonconforming use of a structure, building and/or land is to be discontinued for a period of more than one (1) year and the owner or operator of the nonconforming use wishes to maintain a legal nonconforming status. A Certificate of Intention form shall be completed by the owner or operator of the discontinued nonconforming use. Said completed Certificate of Intention form shall be submitted to and approved by the Zoning Officer. The applicant shall indicate in writing the reason or basis for the discontinuation of the nonconforming use and the anticipated date on which the nonconforming use will resume.

A Certificate of Intention, as issued and approved by the Zoning Officer, shall be valid for a period for a period of one year from the date of issuance. A Certificate of Intention may be renewed annually by the owner or operator of the nonconforming use. Failure to renew a Certificate of Intention shall constitute a deemed abandonment of the use and forfeiture of the legal nonconforming use status of the property.

ARTICLE 10

SIGN REGULATIONS

SECTION 1001 SIGNS

1001.1 TYPE AND USE OF SIGNS

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

- A. IDENTIFICATION SIGN: A sign which communicates the name and/or address of an occupant or a permitted home occupation upon the zoning lot on which the sign is located.
- B. BUSINESS SIGN: A sign which communicates information concerning a business, profession, commodity, service, entertainment or development which is sold, offered, prepared, manufactured or conducted upon the zoning lot where the sign is located.
- C. BILLBOARD OR OFF PREMISE ADVERTISING SIGN: A sign which communicates information concerning a subject, business, profession, activity, commodity, service, entertainment or development not related to, sold, offered, prepared or manufactured on the zoning lot where the sign is located.
- D. REAL ESTATE SIGN: A temporary sign, having an area not greater than eight (8) square feet in area which advertises the sale, rental or development of the premises upon which the sign is located.
- E. SUBDIVISION/DEVELOPMENT SIGN: A temporary real estate sign, not greater than sixty (60) square feet in area, which advertises the sale of property within an approved subdivision or planned residential development.
- F. INSTITUTIONAL SIGN: A sign which identifies a use pertaining to a school, church, hospital or other institution of a similar public or semipublic nature.
- G. ON-SITE DIRECTIONAL AND/OR INFORMATIONAL SIGN: A sign commonly associated with, and limited to, information and directions necessary for visitors entering or exiting a property, including signs marking entrance and exits, parking areas, circulation direction, restrooms and pick-up and delivery areas. Such signs shall contain no advertising material.

SECTION 1002 CONSTRUCTION TYPES

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

- A. FREESTANDING SIGN: A sign not attached or applied to a principal building but supported by another structure, including structures designed for the sign itself and accessory structures.
- B. WALL SIGN: A sign attached, painted or affixed to the wall of a principal structure or accessory structure, not projecting over any public right-of-way and not extending more than two (2') feet from the building or structure.
- C. PROJECTING SIGN: A sign which projects outward or extends more than two (2') feet from the building or structure.

SECTION 1003 PERMITTED SIGNS BY ZONING DISTRICT

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

- A. IDENTIFICATION SIGN: Such signs shall be permitted in all zoning districts.
- B. BUSINESS SIGNS: Such signs shall be permitted in B-2, B-3, A-1, C-1 and I-1 Zoning Districts.
- C. REAL ESTATE SIGNS: Such signs shall be permitted in all zoning districts.
- D. SUBDIVISION/DEVELOPMENT SIGNS: Such signs shall be permitted in all zoning districts and any PRD zoning district, upon the creation of such.
- E. INSTITUTIONAL SIGNS: Such signs shall be permitted in all zoning districts.
- F. ON-SITE DIRECTIONAL AND/OR INFORMATIONAL SIGN: Such signs shall be permitted in all zoning districts.
- G. BILLBOARD SIGNS: Such signs shall be permitted in a I-1 zoning district.

SECTION 1004 AREA HEIGHT AND SETBACK REQUIREMENTS

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

- A. IDENTIFICATION SIGN: An identification sign shall not exceed two (2) square feet in area. Such a sign shall be setback not less than ten (10') feet from the front lot line. The maximum height of an identification sign, if free standing, shall not exceed ten (10') feet in height, or if attached to a building shall not be higher than the first story of the building to which it is attached.
- B. BUSINESS SIGN: A business sign shall not exceed area for the following Zoning Districts:

- B-2 District - Thirty-two (32) square feet
- B-3 District - Sixty-four (64) square feet
- A-1 District - Thirty-two (32) square feet
- C-1 District - Thirty-two (32) square feet
- I-1 District - One Hundred (100) square feet

In a shopping center or an integrated grouping of commercial or industrial uses which is classified as a "Land Development", in addition to permitting each individual business establishment to display a business sign, one (1) sign shall be permitted on the lot, which indicates the name of the shopping center and/or the names of the business establishments located therein. Only one (1) such sign shall be permitted on the lot and such sign shall not exceed two hundred (200) square feet in area.

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

The maximum height of any business sign shall not exceed eighteen (18') feet.

- C. **REAL ESTATE SIGN:** A temporary real estate sign shall not exceed eight (8) square feet in area and shall be located on the same lot on which the property is offered for sale or rental. The sign shall be setback not less than ten (10') feet from the front lot line and shall be removed from the premises within thirty (30) days after the sale or rental of the property.
- D. **SUBDIVISION/DEVELOPMENT SIGN:** A subdivision/development sign shall be considered a temporary real estate sign and shall not exceed sixty (60) square feet in area. The sign shall be located on the same property on which lots and/or homes in the subdivision are offered for sale. Not more than one (1) sign shall be erected in any subdivision, and such signs shall be setback not less than thirty-five (35') feet from the front lot line. The sign shall be removed from the premises within thirty (30) days after the last lot and/or home is sold.
- E. **INSTITUTIONAL SIGN:** An institutional sign for public and semipublic facilities, such as schools, churches, hospitals, libraries, colleges or other institutions of a similar nature shall not exceed thirty (30) square feet in area. The maximum height of such signs shall not exceed the maximum height restriction established for a principal structure in the district in which the sign is located. An institutional sign shall be not less than ten (10') feet from the front lot line.
- F. **ON-SITE DIRECTIONAL AND/OR INFORMATIONAL SIGN:** An on-site directional and/or informational sign shall not exceed six (6) square feet in area. A

front, rear or side yard setback of not less than five (5') feet shall be required for such signs. The maximum height of such signs shall not exceed six (6') feet.

- G. BILLBOARD SIGN OR OFF PREMISE ADVERTISING SIGN: The following regulations shall apply to any billboard and/or off-premise advertising sign. The advertising surface area of any panel shall not exceed 300 square feet and not more than one double-faced panel shall be permitted on the same structure or standard.

Such a sign shall not be located within 200 feet of any residential structure or residential zoning district.

There shall be a minimum spacing distance of 1,000 feet between all such signs.

Such signs shall be setback not less than 300 feet from the center line of any limited access highway and/or a State Legislative Route.

Such signs shall not be attached to a building nor shall such signs be permitted to project above the maximum height limitation for the zoning district in which it is located.

- H. NUMBER OF SIGNS: Excluding on-site directional and/or informational signs, not more than two (2) signs shall be permitted on any property located in any zoning district. In the case of a property located upon a corner lot, a total of three (3) signs may be permitted.

SECTION 1005 SETBACK FOR FREESTANDING SIGNS

The minimum side yard setback and rear yard setback for any freestanding sign shall be the same as the minimum side yard or rear yard setback for a principal structure in the zoning district in which the sign is located. The minimum front yard setback, with the exception of Section 1004 (F), On-Site Directional and/or Informational Sign and Section 1004 (G), Billboard Sign or Off-Premise Advertising Sign, shall be the more restrictive of twenty-five (25%) percent of the required setback for a principal structure in the zoning district in which the sign is located, or ten (10') feet.

SECTION 1006 SIGNS RELATED TO NONCONFORMING USES

An existing sign related to a legally established nonconforming use shall be considered a nonconforming sign, which may be continued at its present dimensions and location, but shall not be enlarged. Where a nonconforming use is lawfully changed to another nonconforming use, a new sign shall be permitted being the same type and size as the previous sign. The new sign shall be erected on the property at the same location as the previous sign. The sign may be erected at a different location provided it meets all applicable regulations within Article 5 and for the zoning district in which it is located.

SECTION 1007 AREA COMPUTATION OF SIGNS

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

- A. WALL SIGN: For a sign painted upon or applied to a building, the area shall be considered to include all lettering, wording and accompanying design or symbols together with any backing associated with the sign.
- B. SEPARATE SYMBOLS: Where the sign consists of individual letters or symbols attached to or painted on a surface; building, wall or window, the area shall be considered to be that of the smallest rectangle or other shape which encompasses all of the letters and symbols.
- C. DOUBLE-FACE SIGN: With the exception of a billboard, when computing the area of a double-face sign, only one (1) sign shall be considered, provided both faces are identical.
- D. CYLINDRICAL SIGN: The area of a cylindrical sign shall be computed by multiplying one-half (.5) of the circumference by the height of the sign.

SECTION 1008 VERTICAL CLEARANCE

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

SECTION 1009 PROHIBITED SIGNS

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

- A. Signs which are located in such a position which endangers vehicular and/or pedestrian traffic by obscuring the site distance.
- B. Signs which by design and/or location may be confused with traffic signs or signals.
- C. Any sign located in or extending into a public right-of-way, including sidewalk areas, except an official street sign or traffic control sign.
- D. Any freestanding or projecting sign within an area bounded by the intersection of two (2) public or private streets, for a distance of twenty (20') feet along the centerline of the right-of-way of such streets from the point of their intersection.

- E. Freestanding or projecting signs over any type of public right-of-way, including sidewalk areas.
- F. Sequential, flashing or oscillating signs.
- G. Signs which due to their construction and/or location would constitute a hazard or a potential danger to the community.

SECTION 1010 PERMITS REQUIRED

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

ARTICLE- 11

OFF-STREET PARKING AND LOADING

SECTION 1101 PURPOSE

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

SECTION 1102 SIZE OF OFF-STREET PARKING SPACES

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

SECTION 1103 SIZE OF OFF-STREET LOADING SPACES

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

SECTION 1104 ACCESS TO OFF-STREET PARKING OR LOADING AREAS

There shall be adequate ingress or egress to all parking spaces. There shall be provided an access drive leading to off-street parking and/or loading areas. Such access drive shall not be less than ten (10') feet in width for residential uses and not less than twenty (20') feet, nor greater than thirty (30') feet for any nonresidential use. Access drives to such off-street parking and/or loading areas shall be limited to well defined locations, not to exceed two (2) along each front, side or rear lot lines. For corner properties, all access drives shall be not less than thirty-five (35') feet from the intersection of streets, as measured along the right-of-way lines.

SECTION 1105 LOCATION OF OFF-STREET PARKING AREAS

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

- A. The lot to be used for off-street parking and the lot on which the principal use is located shall be in the same zoning district.

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

SECTION 1106 DRAINAGE AND SURFACING OF OFF-STREET PARKING AREAS

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

SECTION 1107 INTERIOR CIRCULATION

Interior access ways and aisles shall be designed so as to prevent the blocking of vehicles entering or exiting the site.

SECTION 1108 SCREENING

Properties which contain off-street parking for five (5) or more vehicles and/or any amount of off-street loading, along a side yard or rear yard which abuts a residential district or residential use, shall be screened by a substantial, tight fence not less than six (6') feet in height and a planting strip not less than five (5') feet in depth, with shrubbery, plants or trees which are a minimum of three (3') feet in height at the time of planting.

SECTION 1109 LIGHTING

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

SECTION 1110 PARKING IN YARD AREAS

Required parking shall be permitted within the required front or side yard setbacks, provided that the minimum setback distance to any area used for off-street parking is not less than five (5') feet to the nearest point of a side yard property line and not less than ten (10') feet from the front yard property line. Any off-street parking areas for a nonresidential use, when abutting a residential zoning district or a residential property shall be setback a minimum of fifteen (15) feet from the rear yard and any side yard.

SECTION 1111 EXISTING STRUCTURES AND USES

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

loading facilities provided prior to the adoption of this Ordinance shall not be reduced below the minimum required in this Ordinance.

SECTION 1112 CHANGES OF STRUCTURES OR USES

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

SECTION 1113 FRACTIONAL SPACE

When required parking computation results in fractions, any fraction less than one-half (.50) shall be disregarded and any fraction equal to or greater than one-half (.50) shall be construed to require a full space.

SECTION 1114 MULTIPLE ACTIVITIES OR USES

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

SECTION 1115 OFF-STREET PARKING REQUIREMENTS

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

1. Single-family Structure: One (1) space for each dwelling unit.
2. Two-family Structure: One (1) space for each dwelling unit.
3. Multifamily Residential, (Townhouses and Garden Apartments): Two (2) spaces for each dwelling unit.
4. Rooming House: One (1) space for each guest room.
5. Home Occupation: Three (3) spaces, excluding those required for the dwelling unit.
6. Residential Conversion: Two (2) spaces for each additional dwelling unit.
7. Churches and Similar Places of Worship: One (1) space for every four (4) seats in the main assembly room or one (1) space for each twelve (12) feet of bench length.

8. Places of Public or Private Assembly, including Auditoriums or Meeting Halls: One (1) space for every four (4) seats or one (1) space for each fifty (50) square feet of floor area when there is no fixed seating.
9. Schools, Elementary and Secondary: One (1) space for each staff member, plus one (1) space for every twenty (20) classroom seats.
10. College, Commercial, Business or Vocational Trade Schools: One (1) space for each staff and/or faculty member, plus one (1) space for every five (5) classroom seats.
11. Nursery or Day Care Schools: One (1) space for each employee, plus one (1) space for every five (5) children, based upon the maximum number of children which the facility is licensed to serve.
12. Nursing Homes: One (1) space for every five (5) beds, plus one (1) space for each employee on the maximum working shift.
13. Medical or Dental Offices or Clinics: Six (6) spaces for every doctor, dentist, chiropractor or other licensed medical practitioner.
14. Nonprofit Social Halls, Clubs and Lodges: One (1) space for every one hundred (100) square feet of gross floor area.
15. Public Uses: One (1) space for every one hundred (100) square feet of gross floor area.
16. Public Utility Facilities: Two (2) spaces per facility; if the facility includes maintenance and/or storage yards then the required number of spaces shall be one (1) for each employee assigned to work at such facility.
17. Outdoor Recreational Facilities: In cases where such facilities include spectator seating, there shall be one (1) space for every four (4) seats; facilities which do not provide any spectator seating shall provide one (1) space for every two thousand (2,000) square feet in the recreational site, plus an additional ten (10) spaces, if there is a swimming pool and an additional two (2) spaces if there is playground equipment.
18. Retail Businesses: One (1) space for every two hundred (200) square feet of gross floor area.
19. Eating and Drinking Establishments: One (1) space for every three (3) seats, plus two (2) spaces every three (3) employees based upon the maximum working shift.

20. Fast Food Restaurant: One (1) space for every eighty (80) square feet of service or dining area, with a minimum of five spaces. A fast food restaurant with a drive-in window shall, in addition to the above requirements, provide eight (8) stacking spaces for the drive-in window designated for the ordering station. Such spaces shall be designed in a manner not to impede pedestrian or vehicular circulation on the site or on any abutting street.
21. Entertainment Facilities: Such facilities as defined in Article 2 of this Ordinance, shall require one (1) space for every one hundred (100) square feet of gross floor area.
22. Miniature Golf: Two (2) spaces for each tee.
23. Personal Services: As defined in Article 2 of this Ordinance, such establishments shall provide one (1) space for every three hundred (300) square feet of gross floor area; the following exceptions include:
 - A. Self-service Coin Operated Laundries and Dry Cleaners: Shall provide one (1) space for every two (2) washing or drying machines.
 - B. Health Clubs: Shall provide one (1) space for every two hundred (200) square feet of gross floor area; any such club which also serves food and/or beverages shall also comply with the parking requirements of any eating or drinking establishment.
24. Animal Hospital: Five (5) spaces for every veterinarian.
25. Group Residence: One (1) space for each two employees based upon the maximum working shift and one (1) space for each two residents who are eligible to operate a vehicle.
26. Funeral Homes and Crematories: Twenty (20) spaces for each viewing parlor.
27. Professional Offices: One (1) space for every two hundred (200) square feet of gross floor area.
28. Motels and Hotels: One (1) space for each unit for guest accommodations; any such facility which also serves food and/or beverages shall also comply with the parking requirements of an eating or drinking establishment.
29. Self Storage Warehouse: One (1) space for every ten (10) stalls or lockers available for rental, plus one (1) for each employee on the maximum working shift.

30. Gasoline Service Stations: Two (2) exterior spaces for each service bay, one (1) space for each pump, plus one (1) space for every two hundred (200) square feet of gross floor area which is used for the sale of retail goods, including food and/or beverages.
31. Automobile Car Washes: One (1) space for each employee on the maximum working shift.
32. Automotive Sales: One (1) exterior space for every six hundred (600) square feet of gross interior floor space plus one (1) additional space per each 5,000 square feet open sales or display area.
33. Automotive Repairs: One (1) exterior space for every two hundred (200) square feet of gross interior floor area.
34. Equipment Sales and Repairs: One (1) exterior space for every two hundred (200) square feet of gross floor space.
35. Industrial, Manufacturing, Wholesale and Warehouse Establishments, Truck Terminals, Research and Testing Facilities: One (1) space for every one thousand (1000) square feet of gross floor area; plus one (1) space for every two (2) employees on the maximum working shift; in any case, however, the total parking area shall be not less than twenty-five (25%) percent of the total gross square feet of the building.

SECTION 1116 PARKING FOR OTHER COMMERCIAL USES

Any commercial use or nonresidential use of a structure, building or land, not specifically listed within Section 1115 of this Ordinance shall provide one (1) off-street parking space for every three hundred (300) square feet of gross floor area or lot area.

SECTION 1117 OFF-STREET LOADING REQUIREMENTS

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

SECTION 1118 PROVISION OF HANDICAPPED PARKING SPACES

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

places of lodging

establishments serving food or drink

places of exhibition or entertainment

places of public gathering

sales or rental establishments

service establishments, stations used for specified public transportation.

places of public display or collection

places of recreation

places of education

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

A commercial facility shall include any business whose operations are open to the general public.

SECTION 1119 DESIGN FEATURES FOR HANDICAPPED PARKING SPACES

The following provisions shall apply for required handicapped parking spaces:

1. An area not less than five (5) feet in width shall be provided between each handicapped parking space. Said area shall be marked and/or designed to prevent parking therein.
2. An area not less than eight (8) feet in width shall be provided between each van accessible parking space. Said area shall be marked and/or designed to prevent parking therein.
3. Vehicular access to handicapped parking areas shall have a minimum vertical clearance of not less than nine and one half (9.5) feet.
4. An off-street parking area shall be designed to provide accessible routes from the handicapped parking areas to an accessible building entrance and to public streets and sidewalks which adjourn the off-street parking area.

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

SECTION 1120 **SIGNAGE FOR HANDICAPPED PARKING**

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

SECTION 1121 **MINIMUM NUMBER OF HANDICAPPED ACCESSIBLE SPACES**

When parking spaces are provided for self-parking by employees or visitors, or both, within the total number of off-street parking spaces required under Section 1115 and/or Section 1116 of this Ordinance, the following table shall be used to determine the required number of handicapped accessible spaces.

<u>TOTAL NUMBER OF SPACES</u>	<u>REQUIRED NUMBER OF ACCESSIBLE SPACES</u>
1 TO 25	1
26 TO 50	2
51 TO 75	3
76 TO 100	4
101 TO 150	5
151 TO 200	6
201 TO 300	7
301 TO 400	8
401 TO 500	9
501 TO 1000	2 PERCENT OF TOTAL

ARTICLE 12

FLOOD PLAIN MANAGEMENT

SECTION 1201 **INTENT**

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

- A. Promote the general welfare, health, and safety of the community.
- B. Encourage the utilization of appropriate construction practices in order to prevent or minimize flood damage in the future.
- C. Minimize danger to public health by protecting water supply and nature drainage.
- D. Reduce financial burdens imposed on the community, its governmental units, and its residents, by preventing excessive development in areas subject to flooding.

SECTION 1202 **SPECIAL DEFINITIONS**

The definitions of terms provided herein shall apply to the enforcement and administration of the regulations contained within this Article.

1202.01 **Base Flood**

A flood having a one percent chance of being equaled or exceeded in any given year and also referred to as a 100 Year Flood.

1202.02 **Basement**

The lowest level or story of a building which has its floor subgrade (below ground level) on all sides.

1202.03 **Construction**

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

1202.04 **Development**

Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, the placement of manufactured homes, streets and other paving, utilities, filling, grading, excavation, mining,

dredging, drilling operations, storage of equipment or material, and the subdivision of land.

1202.05

FEMA

The Federal Emergency Management Agency

1202.06

Flood Maps

The most recent map prepared by FEMA which delineates the special hazard areas and risk premium zones applicable in Foster Township.

1202.07

Flood

The temporary inundation of normally dry land.

1202.08

Flood, One Hundred Year

See "Base Flood".

1202.09

Flood Insurance Study

A study prepared by FEMA, for the Foster Township which includes an examination, evaluation and determination of flood hazards, and if appropriate, corresponding water surface elevations.

1202.10

Flood Fringe

The portion of a One Hundred Year Flood Plain which is beyond the delineated limits of the Floodway, based upon the most current Flood Insurance Study and Flood Maps.

1202.11

Flood Plain, One Hundred Year

The areas specifically identified as being subject to inundation by the Base Flood and/or the One Hundred Year Flood, which is comprised of a Flood Fringe Area and Floodway as delineated upon the Flood Maps.

1202.12

Floodproofing

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

1202.13 Floodway

The designated area of a Flood Plain required to carry and discharge flood waters of a given magnitude. For the purposes of this Ordinance, the Floodway shall be capable of accommodating a flood of the One Hundred (100) Year magnitude.

1202.14 Freeboard

A margin of safety, expressed in feet above the flood elevation of a One Hundred Year Flood.

1202.15 Lowest Floor

The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for the parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor, provided, that such enclosure is designed and built to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood waters. Designs for meeting this requirement must be certified by either a registered professional engineer or architect or exceed the following minimum criteria:

- a. A minimum of two openings having a total net area of not less than one square (1) inch for every square foot of enclosed area subject to flooding shall be provided.
- b. The bottom of all openings shall be no higher than one (1) foot above grade.
- c. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

1202.16 Manufactured Home

A transportable, single-family dwelling intended for permanent occupancy, office, or place of assembly, contained in one or more sections, built on a permanent chassis, which arrives at a site complete and ready for occupancy except for minor and incidental unpacking and assembly operations, and constructed so that it may be used with or without a permanent foundation. The term includes park trailers, travel trailers, recreational and other similar vehicles which are placed on a site for more than 180 consecutive days.

1202.17 **Manufactured Home Park**

A parcel of land under single ownership, which has been planned and improved for the placement of two or more manufactured homes for non-transient use.

1202.18 **Obstruction**

Any structure or assembly of materials including fill above or below the surface of land or water, and any activity which might impede, retard or change flood flows.

1202.19 **Recreational Vehicle**

A vehicle which exhibits the following:

- (a) is built upon a single chassis;
- (b) is 400 square feet or less when measured at the largest horizontal projections;
- (c) is designed to be self-propelled or permanently towable by a light duty truck;
- (d) is designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

1202.20 **Substantial Improvements**

Any repair, reconstruction, or improvement of a structure, the cost of which equals 50% of the market value of the structure either before the improvement or repair is started, or, if the structure has been damaged and is being restored, before the damage occurred. The term does not, however, include either (a) any project for improvement of a structure to correct existing violations of State or municipal health, sanitary or safety code specifications which are identified by the municipal code enforcement official and which are the minimum necessary to assure safe living conditions, or (b) any alteration of a "historic structure."

SECTION 1203 **ABROGATION AND GREATER RESTRICTIONS**

The provisions of this Article supersede any other conflicting provisions which may be in effect in identified Flood Plain areas. However, any other ordinance provisions shall

remain in full force and effect to the extent that those provisions are more restrictive. If there is any conflict among any of the provisions of this Article and Ordinance, or any other Ordinance of the Foster Township, the more restrictive shall apply.

SECTION 1204 SEVERABILITY

Should any section or provision contained within this Article be declared invalid by a court of competent jurisdiction, such decisions shall not affect validity of this Ordinance as a whole, or any other part thereof.

SECTION 1205 WARNING AND DISCLAIMER OF LIABILITY

The degree of flood protection sought by the provisions of this Article is considered reasonable for regulatory purposes and is based upon acceptable engineering methods of study. Larger floods may occur. Flood heights may be increased by man-made or natural causes such as ice jams and bridge openings restricted by debris. This Article does not imply that areas outside the various One Hundred (100) Year Flood District(s), or that land uses permitted within such district(s) will be free from flooding or flood damages.

The provisions and regulations contained within this Article shall not create liability on the part of the Foster Township or any officer or employee thereof for any flood damages that result from reliance on this Article or of any decision lawfully made thereunder.

SECTION 1206 OVERLAY OF FLOOD PLAIN DISTRICTS

The various One Hundred (100) Year Flood Plain Districts within a One Hundred (100) Year Flood Plain shall include all areas which are subject to inundation by waters of a One Hundred (100) Year Flood. The source of delineating the boundaries of the various One Hundred (100) Year Flood Plain Districts shall be based upon the most recent Flood Insurance Study and Flood Maps as prepared by FEMA. The various One Hundred (100) Year Flood Plain Districts shall be deemed an overlay on any existing or hereafter established zones or districts upon Foster Township's Official Zoning Map.

SECTION 1207 IDENTIFICATION OF ONE HUNDRED (100) YEAR FLOOD PLAIN DISTRICTS

1207.1 THE ONE HUNDRED (100) YEAR FLOODWAY is the portion of a One Hundred (100) Year Flood Plain subject to inundation and designated to carry and discharge the waters of the One Hundred (100) Year Flood without any increase in the water surface elevation of that flood. The delineation of such district(s) shall be based upon the Flood Insurance Study and the Flood Maps.

1207.2 THE ONE HUNDRED (100) YEAR FLOOD FRINGE is that portion of a One Hundred (100) Year Flood Plain subject to inundation which is outside

of the delineated floodway. The delineation of such district(s) shall be based upon the Flood Insurance Study and Flood Maps.

A zoning permit and approval of the same shall be required for the use of any property located within any of the above noted flood districts which constitutes a "development" in accordance with the definition of said term as provided under Section 1202.04 of this Ordinance.

SECTION 1208 CHANGES TO DELINEATED BOUNDARIES

The delineation of a One Hundred (100) Flood Plain as provided for under Section 1207, may be modified by the Foster Township Board of Supervisors, subject to approval to FEMA, where studies and/or information documents the need for such revision. Any change shall be subject to compliance with the following:

- A. The party supplying the required documentation shall be submitted under the signature of a registered professional engineer, who is qualified to perform hydrologic and hydraulic computations.
- B. The party submitting such documentation shall confirm with FEMA that the methodology and data contained therein is consistent with that used in the preparation of the most recent Flood Insurance Study for Foster Township. Said confirmation from FEMA shall be secured in writing.
- C. All information and documentation provided for under this Article for any proposed modification of the boundaries of a One Hundred (100) Year Flood shall be submitted concurrently to both FEMA and to the Pennsylvania Department of Community Affairs.
- D. Prior to the Foster Township Board of Supervisors' approval of any proposed modifications of the boundaries of a One Hundred (100) Year Flood Plain, written approval and concurrence of the subject modification from FEMA shall be secured.
- E. Any proposed modification of a boundary of a One Hundred (100) Year Flood Plain, shall be governed by the applicable provisions contained in Article 14 of this Ordinance.

SECTION 1209 INITIAL DETERMINATION OF BOUNDARIES

The Zoning Officer, in the course of reviewing proposed developments, shall be responsible for determining the applicable boundaries of a One Hundred (100) Year Flood Plain. Any party who wishes to dispute or challenge the determination of the Zoning Officer may appeal such decision to the Foster Township Zoning Hearing Board. The burden of proof shall be on the appellant.

SECTION 1210 ALTERATIONS TO WATERCOURSES

No encroachment, alteration, or improvement of any kind shall be made to any watercourse until all adjacent municipalities which may be affected by such action have been notified by Foster Township or the party proposing such, and until all required permits or approvals have been first obtained from the Pennsylvania Department of Environmental Resources, Bureau of Dams and Waterway Management, and FEMA. In addition, Pennsylvania Department of Community Affairs, Bureau of Community Planning, shall be notified prior to any alteration or relocation of any watercourse. Any party proposing an alteration to a watercourse must provide all necessary documentation to certify that the flood carrying capacity within the watercourse shall be maintained upon completion of the proposed alteration.

SECTION 1211 FLOODWAY RESTRICTIONS

Within an identified Floodway no encroachment shall be permitted, including fill, new construction, substantial improvements, and other type of development, unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels during the occurrence of a One Hundred (100) Year Flood. Such analysis shall be performed by a registered professional engineer, who is qualified to perform hydrologic and hydraulic computations. The applicant's engineer shall be required to:

- A. Contact the FEMA Regional Office in Philadelphia to confirm that the proposed methodology and data are consistent with those used in the preparation of the applicable Flood Insurance Study for Foster Township. Said confirmation from FEMA shall be secured in writing.
- B. Include with said analysis all necessary information including but not necessarily limited to valley cross sections, plan views, all assumptions and computations, and bridge, culvert, drainage basins and dam data, if applicable.
- C. Provide written certification that the proposed encroachment will not result in any increased flood heights during the occurrence of a One Hundred (100) Year Flood.
- D. In the event that a proposed development or encroachment includes modifications or alterations to the channel of the watercourse, as a means to offset any anticipated rise in the elevation of a base flood, Section 1209, in addition to the provisions of this Section, shall apply.

The above information shall be submitted to the Zoning Officer, the Township Engineer, FEMA and DER for review and comment. In addition

to receiving a positive review and approval from FEMA, the applicant shall be required to secure a Water Obstruction Permit from DER under Title 25, Chapter 105 of the Pennsylvania Code. No zoning permit shall be issued until the Zoning Officer finds that all applicable requirements have been met.

SECTION 1212 ON-SITE REPLACEMENT - FLOODWAY

When a structure, which is located within a Floodway, is demolished or destroyed by fire or other casualty, a new development shall be permitted on the subject parcel of land, and shall be exempt from the provisions under Section 1211 when the following conditions are met:

- A. The maximum permitted size of a new structure or development shall not exceed the linear dimensions and the total cubic feet of the previous development or structure.
- B. The new structure or development shall not represent the replacement of a nonconforming use or a new use which is not permitted within the underlying district.
- C. The new structure or development shall be floodproofed to an elevation not less than one and one-half (1.5) feet above the base flood elevation.

SECTION 1213 STRUCTURAL ANCHORING AND FLOODPROOFING REQUIREMENTS

All buildings and structures which represent new construction and/or substantial improvement shall be firmly anchored in accordance with accepted engineering practices to prevent flotation, collapse and lateral movement. The Zoning Officer shall require the applicant to submit the written opinion of a registered professional engineer that the proposed structural design meets this standard prior to the issuance of a zoning permit.

SECTION 1214 ISSUANCE OF BUILDING PERMIT

Prior to the issuance of any building permit, the Code Enforcement Officer or the person so authorized by Foster Township to issue building permits shall review the application for the permit to determine if all other necessary government permits required by State and Federal laws have been obtained, such as those required by the Pennsylvania Sewage Facilities Act (1966-537, as amended), the Pennsylvania Dam Safety Act (1937-394, as amended), the United States Clean Water Act, Section 404, 33 U.S.C. 1344. No building permit shall be issued until such a determination has been made.

SECTION 1215 FLOODPROOFING

Zoning approval of any proposed use, development and/or substantial improvement, which is located within a One Hundred (100) Year Flood Plain shall be conditioned upon strict compliance with all applicable floodproofing provisions as contained within this

Article, and other applicable codes and ordinances of Foster Township including but not limited to the following standards:

1215.1 RESIDENTIAL

Any new construction or substantial improvement to residential structures located completely or partially within a One Hundred (100) Year Flood Plain shall be designed and constructed to have the lowest floor, including basement, elevated to not less than one and one half (1.5) feet above the corresponding base flood elevation.

1215.2 NONRESIDENTIAL

Any new construction or substantial improvement to nonresidential structures located completely or partially within an identified One Hundred (100) Year Flood Plain shall be designed and constructed to provide:

- A. The lowest floor, including basement, shall be elevated not less than one and one half (1.5) feet above the corresponding base flood elevation.

OR

- B. Any nonresidential structure, or part thereof, having a lowest floor (including basement) which is not elevated to at least one and one half (1.5) feet above One Hundred Year (100) flood elevation, shall be floodproofed in a completely or essentially dry manner in accordance with the standards contained in the publication titled "Floodproofing Regulations" published by the U.S. Army Corps of Engineers, dated March 31, 1992, or with a demonstrated equivalent standard. All plans and specifications for such floodproofing shall be accompanied by a statement certified by a registered professional engineer or architect which states that the proposed design and methods of construction are in conformance with the aforementioned standards.

1215.3 MANUFACTURED HOMES

Where permitted in accordance with the underlying zoning districts, all manufactured homes and additions thereto which are located completely or partially within an identified One Hundred (100) Year Flood Plain shall be governed by the following provisions:

- A. Placed upon a permanent foundation.
- B. Elevated so that the lowest floor of the manufactured home is one and one half (1.5) feet or more above the elevation of the One Hundred Year Flood.

- C. Anchored to resist flotation, collapse or lateral movement.

Within any identified floodway, manufactured homes shall be prohibited.

1215.4 USE OF FILL

If fill is to be used to raise the lowest floor of the structure, including basement, to an elevation of one and one half (1.5) feet above the base flood elevation the fill shall:

- A. Extend laterally at least fifteen (15) feet beyond the building line from all points.
- B. Consist only of soil or small rock materials.
- C. Be compacted to provide necessary permeability and resistance to erosion, scouring or settling.
- D. Be no steeper than one (1) vertical to two (2) horizontal unless substantial data justifying steeper slopes are submitted to, and approved by the Code Enforcement Officer or the person so authorized by Foster Township to issue building permits.
- E. Be utilized in a manner and extent to which it does not adversely affect adjacent properties.

SECTION 1216 UTILITIES

1216.1

New and replacement public and private utilities and facilities, such as sanitary sewers, gas lines, electric systems, telephone systems and water systems shall be designed and constructed to minimize or eliminate flood damages.

1216.2

Within any structure the following items shall be elevated to be not less than one and one half (1.5) feet above the base flood elevation.

- A. Water heaters of any type.
- B. Furnaces
- C. Air Conditioning and ventilating systems.
- D. Electrical distribution panels.

- E. Similar mechanical equipment or apparatus.

Water supply systems and sanitary sewage systems of structures shall be designed to prevent the infiltration of flood waters into the system and discharges from the system into flood waters.

All gas and oil supply systems shall be designed to prevent the infiltration of flood waters into the system and discharges from the system into flood waters. Additional provisions shall be made for the drainage of these systems in the event that flood water infiltration occurs.

SECTION 1217 CERTIFICATION OF FLOODPROOFING

When floodproofing methods are utilized in accordance with Section 1215 of this Ordinance, a registered professional engineer or architect shall certify in writing that the floodproofing methods utilized are adequate to withstand flood depths, pressures, velocities, impact and uplift forces and other factors associated with a One Hundred (100) Year Flood. The certification shall also indicate the specific elevation in relation to mean sea level to which such structures are floodproofed. In addition to certification of as-built drawings, a certification by an architect or professional engineer shall be required immediately following the completion of construction or substantial improvements, including completion and filing of an Elevation Certificate and/or a Floodproofing Certificate as provided by FEMA. This certification must indicate the mean sea level of the first floor and/or, as applicable, the mean sea level to which floodproofing measures have been taken. Such certification is required prior to the issuance of an Occupancy Permit by the Zoning Officer, Code Enforcement Officer or the person so authorized by Foster Township to issue an Occupancy Permit.

SECTION 1218 FULLY ENCLOSED AREAS BELOW THE LOWEST FLOOR

Within an identified One Hundred (100) Year Flood Plain, any fully enclosed areas of a structure below the lowest floor shall be limited to unfinished space limited to the parking of vehicles, building access or storage. Such enclosed areas, including new construction and substantial improvements may be located below the base flood elevation subject to the following:

- A. Be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for entry and exit of floodwaters.
- B. Provide a minimum of two (2) openings having a total net area of not less than one square (1) inch for every square foot of enclosed area subject to flooding.
- C. The bottom of the aforementioned openings addressed in item B. shall be no higher than one (1) foot above grade with the option of being equipped with

screens, louvers, valves or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

- D. Provide written certification from a registered professional engineer or architect that the criteria of the above items, (A),(B)and (C) have been met.

In addition to the above, the owner of the property shall record upon the deed of said property, a restriction which limits the use of the fully enclosed areas of a structure below the lowest floor to the parking of vehicles, building access or storage. A copy the with said restriction shall be provided to the Zoning Officer.

SECTION 1219 **PROHIBITED USES**

The development of the following uses, including their construction, expansion, enlargement, and/or substantial improvement, are hereby prohibited in any area of a designated One Hundred (100) Year Flood Plain:

- (1) Manufactured home park;
- (2) Nursing Homes (Public or Private);
- (3) Hospitals and Clinics (Public or Private);
- (4) Jails, Prisons, or any similar detention facility.
- (5) On-lot sewage disposal systems, including the encroachment of such a system within fifty (50) feet of any wetlands.

SECTION 1220 **REGULATIONS FOR HAZARDOUS MATERIALS**

1220.1 **Classification**

For the purpose of administration the following materials and substances are hereby deemed and classified as potential hazards when located in a One Hundred (100) Year Flood Plain:

Acetone
Ammonia
Benzene
Calcium carbide
Celluloid
Carbon disulfide
Chlorine
Hydrocyanic acid
Hydrochloric acid
Magnesium

Nitric acid and oxides of nitrogen
Petroleum products (gasoline, fuel oil, etc.) Phosphorus
Potassium
Sodium
Sulphur and sulphur products
Pesticides (including insecticides, fungicides and rodenticides)
Radioactive substances
Polychlorinated Biphenyl (PCB)
Dioxin

1220.2 **Prohibited Uses**

The use of any property for the production of or requiring the storage or maintenance of any quantities of radioactive substances, Polychlorinated Biphenyl (PBC) or Dioxin shall be expressly prohibited anywhere within a One Hundred (100) Year Flood Plain.

1220.3 **Restrictions in Flood Fringe Areas**

With the exclusion of Radioactive Substances, Polychlorinated Biphenyl and Dioxin, the use of any property which includes the storage, production or maintenance of a supply of more than 550 gallons or comparable volume of those materials and substances listed in Section 1220.1 of this Article, may be located within a Flood Fringe area subject to the use being permitted in the underlying zoning district and further subject to being elevated or floodproofed to remain completely dry at an elevation of not less than one and one-half (1.5) feet above the base flood elevation.

1220.4 **Restrictions for Floodway**

The use of any property which includes the storage, production or maintenance of material and substances listed in Section 1220.1 of this Ordinance shall be prohibited in a designated Floodway.

SECTION 1221 **SUBSTANTIAL IMPROVEMENTS**

Any modification, alteration, reconstruction or improvement of any kind to any existing structure which equals or exceeds fifty (50%) percent of its market value, shall constitute a substantial improvements and shall be permitted subject and conditioned upon full compliance with all applicable floodproofing provisions of this Ordinance.

SECTION 1222 **VARIANCES**

In addition to the criteria contained in Section 1509 of this Ordinance, the following additional standards and criteria shall apply for a request for a variance:

1. No variance shall be issued for any proposed development, use and/or activity within any designated floodway which would result in any increase in flood levels during a One Hundred (100) Year Flood.
2. No variance shall be issued which would allow for the development, use and/or activity of those specifically prohibited in Section 1219, PROHIBITED USES and Section 1220, REGULATIONS FOR HAZARDOUS MATERIALS of this Ordinance.
3. A variance shall authorize the least reduction and/or modification necessary to provide relief in consideration of the flood hazard.
4. A variance shall only be issued upon:
 - A. A showing of good and sufficient cause.
 - B. A determination that failure to grant the variance would result in an exceptional hardship to the applicant.
 - C. A determination that granting the variance will not result in a prohibited increase in flood heights, additional threat to public safety, extraordinary public expense, create nuisances, cause fraud on, or victimize the public or conflict with any local laws or ordinances.

SECTION 1223 MODIFICATION OF FREEBOARD REQUIREMENT
ADMINISTRATIVE PROCEDURES

The Township shall notify the applicant in writing over the signature of the Chairman or Secretary of the Zoning Hearing Board that:

- A. The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as twenty-five (\$25.00) dollars for each one hundred (\$100.00) dollars of flood insurance coverage.
- B. Such construction below the base flood elevation increases risk to life and property.
- C. The issuance of a variance from the required one and one half (1.5) feet of freeboard per Section 1215 of this Ordinance, but above the base flood elevation may result in increased premium rates for flood insurance and increased risks to the structure, its contents and occupants.

Such notification shall be maintained with a record of all variances approved and/or considered by the Zoning Hearing Board, including justification for their issuance or

denial. Such information shall be placed on file with the Secretary to the Zoning Hearing Board and shall be submitted annually to FEMA and the Foster Township Board of Supervisors.

ARTICLE 13

ENFORCEMENT AND ADMINISTRATION

SECTION 1301 ZONING OFFICER

1301.1 APPOINTMENT

A Zoning Officer, who shall not hold any elected office within Foster Township, shall be appointed by the Foster Township Board of Supervisors. The Zoning Officer shall meet qualifications established by Foster Township, which shall at minimum include, a working knowledge of municipal zoning.

1301.2 DUTIES AND POWERS OF THE ZONING OFFICER

It shall be the duty of the Zoning Officer to enforce the provisions of this Ordinance in accordance with its literal terms and said Officer shall not have the power to permit any construction, alteration or any use or change of use to land or structure which does not conform to the applicable provisions within this Ordinance. The Zoning Officer's duties shall include but are not limited to the following:

- (A) Receive and review all applications for zoning permits and to approve and issue zoning permits, when warranted.
- (B) Keep an official record of all business and activities, including all complaints of zoning violations of any of the provisions of this Ordinance and the resulting action of said complaints.
- (C) Conduct inspections of properties as required to fulfill his duties. In conducting such activities, the Zoning Officer may have access to any land, building or structure, subject to the consent and/or right of entry by the owner or tenant.
- (D) Issue permits as authorized by the Zoning Hearing Board, the Planning Commission or Board of Supervisors, pursuant to the requirements and applicable procedures of this Ordinance or by written order of a Court of proper jurisdiction.
- (E) Issue Certificates of Zoning Compliance in accordance with the terms and provisions of this Ordinance.
- (F) Issue Certificates of Nonconformity to nonconforming uses and/or structures and to maintain a listing of such as required.
- (G) Maintain the Zoning Map, showing the current zoning districts of all land and the zoning text, including amendments thereto.

- (H) Notify the Zoning Hearing Board, Planning Commission or the Board of Supervisors of required and/or requested hearings based upon the completion of his review and processing of applications for a zoning permit. The submission of an application for a zoning permit to the Zoning Officer and his determination that a hearing before the Board is either required or requested shall be a prerequisite for any application being forwarded to the Zoning Hearing Board for consideration.
- (I) Participate in proceedings before the Zoning Hearing Board the Planning Commission or the Board of Supervisors and furnish such facts, records and similar information which may assist them in rendering decisions.

SECTION 1302 ZONING PERMIT

1302.1 ISSUANCE OF PERMIT

No building, structure or sign shall be erected, constructed, moved, added to or structurally altered, nor shall any land, structure or building be put to any use without first obtaining a zoning permit from the Zoning Officer. No application shall be submitted to or considered by the Zoning Hearing Board until the Zoning Officer has received an application for a Zoning Permit and has determined that an approval and/or review by the Zoning Hearing Board, Planning Commission or Board of Supervisors is required or requested by the applicant. No such permit shall be issued except in conformity with the provisions of this Ordinance or upon written approval from the Zoning Hearing Board in the form of a Special Exception, Variance, or an Administrative Appeal, upon written approval from Board of Supervisors in the form of a Conditional Use Permit or as otherwise provided for by this Ordinance or any Court of proper jurisdiction. Normal and routine maintenance and repairs to a structure shall be exempt from obtaining a zoning permit. Interior remodeling of a structure shall also be exempt from obtaining a zoning permit provided that such remodeling does not include structural alterations or result in a change in the use of the structure.

1302.2 FORM OF APPLICATION

All applications for permits shall be made in writing by the owner, his authorized agent or equitable owner and shall be filed with the Zoning Officer on forms prescribed by the same. All applications shall be accompanied by two sets of plans and information which includes but is not limited to the following:

- (A) A plan drawn to scale, indicating the actual dimensions and shape of the lot to be built upon and a written statement that the applicant is the owner or authorized agent of the owner or equitable owner.
- (B) The exact size and location on the lot of existing and/or proposed structures, buildings or signs, including proposed additions thereto.
- (C) The number and type of dwelling units, if applicable.

- (D) The amount and location of parking and/or loading facilities.
- (E) The existing use and/or proposed use of the property.
- (F) The height of the building, structure and/or sign.
- (G) A detailed scale drawing of all signs, existing and proposed, indicating their location and how they are and/or will be affixed to the property.
- (H) Existing and/or proposed access to the site, including the name of the public street and/or road.
- (I) Any other information deemed necessary by the Zoning Officer to determine conformance with the provisions and regulations of this Ordinance.

1302.3 PROCESSING APPLICATIONS

The Zoning Officer shall return one copy of the plans and accompanying information to the applicant upon marking such copies approved or denied and attested to the same by his signature. One copy of the plans and accompanying information shall be retained by the Zoning Officer and kept on file.

1302.4 TIME PERIOD FOR PROCESSING APPLICATION

A zoning permit shall be approved or denied within thirty (30) days from the date of receipt of a completed application and plans along with any additional information as required by the Zoning Officer. A zoning permit shall not be deemed complete, until all applicable and associated fees are paid in full. In cases of denial, the applicant shall be informed of his/her rights of appeal as prescribed within this Ordinance. Such notice shall be in writing under the signature of the Zoning Officer.

1302.5 EXPIRATION OF ZONING PERMIT

A zoning permit shall expire one year from the date of issuance, if the work described in said permit has not commenced, including permits authorized to be issued by the Zoning Hearing Board. If the work described within the zoning permit has commenced within the prescribed one year period, the permit shall expire two years from the date of issuance. An extension of time may be granted as a variance from the Zoning Hearing Board.

1302.6 REVOCATION OF PERMITS

The Zoning Officer may revoke a permit or approval issued in error under the provisions of this Ordinance or in the case of any false statements or misrepresentation of fact in the application or on the plans on which the permit or approval was based or for any other just cause as set forth in this Ordinance.

SECTION 1303 CERTIFICATE OF ZONING COMPLIANCE

A Certificate of Zoning Compliance, issued by the Zoning Officer, shall be required prior to the occupation for the use or change of use of any building, structure or land.

Residential accessory structures and agricultural uses shall be exempt from securing a Certificate of Zoning Compliance. It shall be unlawful to use and/or occupy any structure, building and/or land or portions thereof in any manner until a Certificate of Zoning Compliance has been issued and obtained from the Zoning Officer.

1303.1 APPLICATIONS

All applications for a Certificate of Zoning Compliance shall be made in writing on forms prescribed by the Zoning Officer and shall include all information necessary for the Zoning Officer to ascertain compliance with the subject zoning permit and this Ordinance.

1303.2 ISSUANCE OF CERTIFICATE OF ZONING COMPLIANCE

A Certificate of Zoning Compliance shall not be issued until the Zoning Officer has certified the proposed use complies with all provisions and regulations of this Ordinance or upon written order from the Zoning Hearing Board or any Court of proper jurisdiction.

1303.3 TIME LIMITATION

An application for a Certificate of Zoning Compliance shall be approved or denied within thirty (30) days after the Zoning Officer has been officially notified of either the completion of construction or the request to occupy and use land where no construction is involved.

SECTION 1304 ENFORCEMENT PROCEDURES

1304.1 NOTICE OF VIOLATION

If in the judgment of the Zoning Officer, it appears that a violation of this Ordinance has occurred, the Zoning Officer shall initiate enforcement proceedings by sending a violation notice to the owner of record of the parcel of land on which the violation has occurred, to any person who has filed a written request to receive violation notices regarding the parcel of land and to any other person requested in writing by the owner of record. The violation notice shall include, but may not be limited to the following:

- (A) The name of the owner of record and any other person against whom Foster Township intends to take action.
- (B) The location and/or address of the property in violation.

- (C) The specific violations with a description of the requirements which have not been met, citing in each instance the applicable sections and provisions of this Ordinance.
- (D) The date by which the steps for compliance must be commenced and the date by which the steps for compliance must be completed.
- (E) That the recipient of the notice has the right to appeal the violation notice and request a hearing on the same before the Zoning Hearing Board within thirty days from the issuance of the violation notice.
- (F) Failure to comply with the notice within the specified time period, unless extended by an appeal to the Zoning Hearing Board, constitutes a violation, with a description of sanctions which shall result to correct or abate the violation.

1304.2 CAUSES OF ACTION

In case any building, structure, landscaping or land is, or is proposed to be, erected, constructed, reconstructed, altered, converted, maintained or used in violation of this Ordinance, the Board of Supervisors or, with the approval of the Board of Supervisors, an officer or agent of Foster Township, or any aggrieved owner or tenant of real property who shows that his property or person will be substantially affected by the alleged violation, in addition to other remedies, may institute any appropriate action or proceedings to prevent, restrain, correct or abate such building, structure, landscaping or land, or to prevent, in or about such premises, any act, conduct, business or use constituting a violation of this Ordinance. When such action is instituted by a landowner or tenant, notice of that action shall be served upon Foster Township at least thirty (30) days prior to the time the action is begun by serving a copy of the complaint to the Board of Supervisors. No action may be taken until such notice has been given.

1304.3 JURISDICTION

District justices shall have initial jurisdiction over proceedings brought under this Section 1304.4 of this Ordinance.

1304.4 ENFORCEMENT REMEDIES

Any person, partnership or corporation who or which has violated or permitted the violation of the provisions of this Ordinance shall, upon being found liable therefor in a civil enforcement proceedings commenced by Foster Township or the Zoning Officer, shall pay a judgment of not more than five hundred dollars, plus all court costs, including reasonable attorney fees incurred by Foster Township as a result of said proceedings. No judgment shall commence or be imposed, levied or payable until the date of the determination of a violation by the district justice. If the defendant neither pays nor timely appeals the judgment, Foster Township may enforce the judgment pursuant to the applicable rules of civil procedure. Each day that a violation continues shall constitute a

separate violation, unless the district justice determining that there has been a violation further determines that there has been a good faith basis for the person, partnership or corporation violating this Ordinance to have believed that there was no such violation. In such cases, there shall be deemed to have been only one such violation until the fifth day following the date of the determination of a violation by the district justice and thereafter each day that a violation continues shall constitute a separate violation. All judgments, costs and reasonable attorney fees collected for the violation of this Ordinance shall be paid over to Foster Township.

The Court of Common Pleas, upon petition, may grant an order of stay, upon cause shown, tolling the per diem fine pending a final adjudication of the violation and judgment.

Nothing contained in this Section shall be construed or interpreted to grant any person or entity other than Foster Township the right to commence any action for enforcement pursuant to this Section.

SECTION 1305 SCHEDULE OF FEES, CHARGES AND EXPENSES

The Board of Supervisors shall establish by resolution a schedule of fees, charges and expenses and collection procedures for zoning permits, certificates of zoning compliance, certificates of nonconformance, appeals to the Zoning Hearing Board, applications for conditional uses, amendments to the Zoning Ordinance, Zoning Map and any other matters pertaining to the administration of this Ordinance. The schedule of fees, charges and expenses shall be available for public inspection and may be altered or amended by resolution of the Board of Supervisors. No action shall be taken on any application, appeal or certificate until all related fees, charges and expenses have been paid in full. An application shall not be deemed as filed until completed and submitted with payment in full of appropriate fees.

ARTICLE 14

AMENDMENTS

SECTION 1401 AMENDMENT PROCEDURE

The provisions of this Ordinance and the boundaries of the zoning districts as set forth upon the Zoning Map, may from time to time be amended by the Board of Supervisors in accordance with the provisions as set forth in the Pennsylvania Municipalities Planning Code, Act 247, as amended. Prior to adopting any amendment to this Ordinance or to the Zoning Map, the following procedures shall be met:

- (A) Any proposed amendment, not initiated by the Planning Commission, shall be referred to the Planning Commission at least thirty (30) days prior to a public hearing before the Board of Supervisors to provide the Planning Commission an opportunity to submit any comments or recommendations regarding the proposed amendment.
- (B) Prior to voting on the enactment of any proposed amendment, the Board of Supervisors shall hold a public hearing pursuant to public notice. If, after any public hearing held upon a proposed amendment, said amendment is substantially changed, or is revised to include land not previously affected by the proposed amendment, the Board of Supervisors shall hold another public hearing before proceeding to vote on the amendment.
- (C) Any recommendation of the Planning Commission shall be submitted to the Board of Supervisors in writing.
- (D) At least thirty (30) days prior to the public hearing, the Board of Supervisors shall submit the proposed amendment to the Luzerne County Planning Commission for its comments and recommendation. In addition to the proposed amendment, the Board of Supervisors shall submit the required fees charged by the Luzerne County Planning Commission for their review.
- (E) Proposed action shall not be taken until the Planning Commission and the Luzerne County Planning Commission comments and recommendations are submitted to the Board of Supervisors. If either Commission fails to act within thirty (30) days, from its receipt of the proposed amendment, the Board of Supervisors may proceed without such recommendation.
- (F) If a proposed amendment involves a zoning map change, notice of said public hearing shall be conspicuously posted by Foster Township at points deemed sufficient along the perimeter of the tract to notify potentially interested citizens. The affected tract or area shall be posted at least one week prior to the date of the

public hearing.

In addition to posting the tract, written notice may be provided to the owners of all properties within a distance of two hundred (200) feet of any property boundary line of the property subject to the proposed zone change. It shall be the responsibility of the applicant to provide the Township with the names and mailing addresses of the true and correct owners of record whose properties fall within the required distance of two hundred (200) feet. While it shall be the intent of Foster Township to provide written notice such owners, may be substantially interested in the proposed zone failure to do so, shall not invalidate an otherwise duly enacted ordinance which provides for a change in the zoning map.

SECTION 1402 APPLICATIONS FOR AMENDMENTS TO THE TEXT OR MAP

The application for a proposed amendment, which is not submitted as a curative amendment, to the text of this Ordinance or to the Zoning Map, shall be submitted in writing to the Zoning Officer, who shall process said application in accordance with Section 1401 of this Ordinance. An application shall contain the following information when applicable:

- (A) The applicant's name and address and/or the name and address of his authorized agent or the equitable owner.
- (B) A signed statement by the owner of record attesting to the truth of the facts of all information contained within the application.
- (C) A scaled plan of the area proposed to be rezoned, which indicates abutting streets, the zone classification of adjoining properties and the names and addresses of property owners within two hundred feet of the area proposed to be rezoned.
- (D) Plans, drawings and explanatory material, which describes in detail the applicant's proposed use and/or development of the property.
- (E) Specify those Sections of this Ordinance or areas upon the Zoning Map which will be affected by the proposed amendment.

SECTION 1403 CURATIVE AMENDMENTS

1403.1 INITIATED BY LANDOWNER

A landowner who desires to challenge on substantive grounds the validity of this Ordinance or the Zoning Map, or any provision thereof, which prohibits or restricts the use or development of land in which he has an interest, may submit a curative amendment to the Board of Supervisors with a written request that his challenge and proposed

amendment to cure the alleged defect, be heard and decided by the Board of Supervisors. In addition to the written request and proposed amendment, the landowner shall also submit plans, drawings and explanatory material, which describes in detail his proposed use or development. The Board of Supervisors shall commence a public hearing pursuant to public notice within sixty days of the landowner's request. The sixty day period shall not commence until all required information and material is submitted, along with all related fees.

The curative amendment and supporting information shall be referred to the Planning Commission and the Luzerne County Planning Commission for their review and comment at least thirty (30) days prior to the public hearing.

The public hearing before the Board of Supervisors shall be conducted in accordance with the procedures contained in Section 1506 of this Ordinance and all references therein to the Zoning Hearing Board shall, for the purposes of this Section, be references to the Board of Supervisors. Public notice of the required public hearing shall include notice of the validity of those particular provisions of this Ordinance and/or the Zoning Map which are in question, along with the place where the proposed amendment, plans, drawings, explanatory material and any other pertinent information may be examined by the public.

If the Board of Supervisors determines that a validity challenge has merit, it may accept a landowner's curative amendment, with or without revisions, or it may adopt an alternative amendment which will cure the challenged defects. The Board of Supervisors shall consider in addition to the proposed curative amendment, plans, drawings and explanatory material the following items:

- (A) The impact of the proposal upon roads, sewer facilities, water supplies, schools and other public service facilities.
- (B) If the proposal is for a residential use, the impact of the proposal upon regional housing needs and the effectiveness of the proposal in providing housing units of a type actually available and affordable by classes of persons otherwise unlawfully excluded by the challenged provisions of this Ordinance and/or Zoning Map.
- (C) The suitability of the site for the intensity of use proposed in relationship to the site's soils, slopes, woodlands, flood plains, aquifers, natural resources and other natural features.
- (D) The impact of the proposed use on the site's soils, slopes, woodlands, wetlands, flood plains, aquifers, natural resources and other natural features, in relationship to the degree to which these are protected or destroyed, the tolerance of the resources to development and any adverse environmental impacts.
- (E) The impact of the proposal on the preservation of agriculture and any other land uses which are essential to the public health and welfare.

The proposed curative amendment shall be deemed denied in accordance with any of the following:

- (A) When the Board of Supervisors notifies the landowner that it will not adopt the curative amendment.
- (B) When the Board of Supervisors adopts another curative amendment which is unacceptable to the landowner.
- (C) When the Board of Supervisors fails to act on the request within forty-five (45) days after the close of the last public hearing on the request, unless the time is extended by mutual consent by the landowner and the Board of Supervisors.

1403.2 INITIATED BY MUNICIPALITY

If the Board of Supervisors determines this Ordinance or the Official Zoning Map, or any portion thereof, to be substantially invalid, it shall declare such by a formal action and propose to prepare a curative amendment to overcome such invalidity. Within thirty (30) days following said declaration, the Board of Supervisors shall by resolution make specific findings setting forth the declared invalidity which may include:

- (A) References to specific uses which are either not permitted or not permitted in sufficient quantity.
- (B) Reference to a class of use or uses which require revision.
- (C) Reference to the entire Ordinance and/or Map which requires revisions.

Within 180 days from the date of the declaration and proposal as set forth in this Section, the Board of Supervisors shall enact a curative amendment to correct those portions deemed invalid or reaffirm the validity of those portions initially deemed to be invalid. Upon the initiation of procedures as set forth in this Section, the Board of Supervisors shall not be required to entertain or consider any landowner's curative amendment, nor shall the Zoning Hearing Board be required to give a report pursuant to Section 1508 of this Ordinance, based upon grounds identical to or substantially similar to those specified in the Board of Supervisors' resolution.

The Board of Supervisors, having utilized the procedures as set forth in this Section, may not again utilize said procedure for a thirty-six month period following the date of the enactment of a curative amendment or reaffirmation of the validity of this Ordinance and/or Zoning Map. However, if after the date of declaration and proposal, there is a substantially new duty or obligation imposed upon Foster Township by virtue of a change in statute or by virtue of a Pennsylvania Appellate Court decision, Foster Township may utilize the provisions of this Section to prepare a curative amendment to fulfill said duty or obligation.

SECTION 1404 ENACTMENT OF AMENDMENTS

A proposed amendment to this Ordinance or to the Zoning Map shall be enacted in conformance with the following:

- (A) The Board of Supervisors shall conduct a public hearing pursuant to public notice and in accordance with the procedures as contained within Section 1401 of this Ordinance.
- (B) Public notice shall include the time, place and date of the meeting at which enactment will be considered and a place within Foster Township where copies of the proposed amendment may be examined without charge or obtained for a charge not greater than the cost thereof.
- (C) Public notice shall include either the full text of the amendment or the title and a brief summary of the amendment as prepared by the municipal solicitor. If the full text is not included, then a copy of such shall be supplied to the newspaper in which the public notice is published, and an attested copy to the County Law Library.
- (D) In the event substantial changes are made to the proposed amendment, before voting upon enactment, the Board of Supervisors shall, at least ten days prior to enactment, readvertise in one newspaper of general circulation in Foster Township, a brief summary setting forth all the provisions in reasonable detail together with a summary of the changes.

SECTION 1405 NOTIFICATION TO COUNTY

Within thirty (30) days after the enactment of an amendment to this Ordinance or to the Zoning Map, a copy of the amendment shall be forwarded to the Luzerne County Planning Commission.

ARTICLE 15

ZONING HEARING BOARD

SECTION 1501 MEMBERSHIP OF BOARD

The membership of the Zoning Hearing Board shall consist of five (5) residents of Foster Township appointed by the Board of Supervisors by resolution. The terms of office for Board members shall be five (5) years and shall be so fixed that the term of office of one member shall expire each year. The Board shall promptly notify the Board of Supervisors of any vacancies which occur. Appointments to fill vacancies shall be only for the unexpired portion of the term. Members of the Board shall hold no other office in the Township, including membership upon the Planning Commission.

SECTION 1502 ALTERNATES TO ZONING HEARING BOARD

The Board of Supervisors may appoint by resolution one resident of Foster Township to serve as an alternate member of the Board. When seated pursuant to the provisions of Section 1504 of this Ordinance, an alternate shall be entitled to participate in all proceedings and discussions of the Board to the same and full extent as provided by law for Board Members, including specifically the right to cast a vote as a voting member during proceedings, and shall have all the powers and duties set forth in this Ordinance and as otherwise provided by law. An alternate shall hold no other office in the Township, including membership on the Planning Commission. An alternate may participate in any proceedings or discussions of the Board, but shall not be entitled to vote as a member of the Board unless designated as a voting alternate member pursuant to Section 1504 of this Ordinance. The term of office for an alternate member of the Zoning Hearing Board shall be one (1) year.

SECTION 1503 REMOVAL OF MEMBERS

Any Board member or alternate may be removed for malfeasance, misfeasance or nonfeasance in office or for any other just cause by the Board of Supervisors. Prior to any vote by the Board of Supervisors, the member shall receive notice fifteen days in advance of the date at which it intends to take such a vote. A hearing before the Board of Supervisors shall be held in connection with the vote, if the member requests a hearing in writing.

SECTION 1504 ORGANIZATION OF BOARD

The Board shall elect from its own membership its officers, who shall serve annual terms as such and may succeed themselves. For the conduct of any hearing and the taking of any action, a quorum shall be not less than a majority of all the members of the Board.

The Board, however, may appoint a hearing officer from its own membership to conduct any hearing on its behalf and the parties may waive further action by the Board as provided in Section 1506. If by any reason of absence or disqualification of a member, a quorum is not reached, the chairman of the Board shall designate the alternate member of the Board to be seated to establish a quorum. The alternate member of the Board shall continue to serve on the Board in all proceedings involving the matter or case for which the alternate was initially appointed until the Board has made a final determination of the matter or case.

The Board may make, alter and rescind rules and forms for its procedure, consistent with ordinances of Foster Township and laws of the Commonwealth. The Board shall keep full public records of its business, which records shall be the property of the Township, and shall submit an annual report of its activities to the Board of Supervisors.

SECTION 1505 EXPENDITURES FOR SERVICES

Within the limits of appropriated funds, the Board may employ or contract for secretaries, clerks, legal counsel, consultants, and technical services which they may deem necessary to augment the Board in the performance of their duties.

SECTION 1506 HEARINGS

The Zoning Hearing Board shall conduct hearings and render decisions in accordance with the following:

- A. Notice of hearings before the Board shall be by public notice; a notice published once a week for two (2) successive weeks in a newspaper of general circulation in the Township. Such notice shall state the time and place of the hearing and the particular nature of matters to be considered at the hearing by the Board. The first publication shall not be more than thirty (30) days and the second publication shall not be less than seven (7) days from the date of the hearing.
- B. Written notice of all hearings before the Board shall be conspicuously posted on the affected property by the owner at least one week prior to the hearing. The owner shall provide the Hearing Board with a notarized affidavit of posting.

Written notice shall be given to the following parties:

- 1. The Zoning Officer.
- 2. The applicant.
- 3. The owner of record of the subject property before the Board, if different than that of the applicant.

4. The owner of record of any property which has an adjoining or contiguous property boundary with the subject property before the Board. An adjoining or contiguous property boundary shall be deemed to also include such properties which have any amount of opposite front, rear or sideyard areas which are separated from the subject property before the Board by a public or private street, road, alley and/or similar right-of-way. In cases of a corner property subject to a hearing before the Board, in addition to the owners of record with an adjoining or contiguous property boundary, notice shall also be given to any owner of record of any property which has frontage along the intersection of the public or private streets or roads in question.
5. Any party or person who has submitted a written request to receive notification on the subject property.

The applicant shall be responsible for providing the Zoning Hearing Board with the names and addresses of the true and correct owners of record based upon the records contained in the Luzerne County Tax Assessor's Office. While it shall be the intent of the Foster Township Zoning Hearing Board to provide written notice to each property owner who has an adjoining or contiguous boundary with a subject property before the Board, as provided for under Item 4 of this Section, failure to do so, shall not represent a basis for appeal or otherwise invalidate a decision and/or finding of the Zoning Hearing Board.

In the event a hearing is continued to a future date for the purpose of obtaining additional information, additional testimony or to render a decision, and the Zoning Hearing Board publicly announces during the course of the hearing the time and date for the resumption of the hearing, additional written notice need not be provided to the above parties

- C. The Board of Supervisors may prescribe reasonable fees with respect to hearings before the Board. Fees for said hearings may include compensation for the secretary, notice and advertising costs and necessary administrative overhead connected with the hearing. The costs, however, shall not include legal expenses of the Board or expenses for engineering, architectural or other technical consultants or expert witnesses.
- D. The hearing shall be held within sixty days from the date of the applicant's request, unless the applicant has agreed in writing to an extension of time. The sixty day time period shall not commence until the applicant has submitted the required application, properly completed, with all required signatures and all required fees.
- E. Hearings shall be conducted by the Board or by any member appointed by the Board as a hearing officer. The decision, or where no decision is called for, the findings shall be made by the Board, unless the appellant or applicant, as the case may be, in addition to the Township, agree to waive any decision or findings by the Board and accept the decision or findings of the hearing officer as final. If the decision or findings of the hearing officer are to be accepted as final, all parties to the hearing must agree to such stipulation at the outset of the hearing.

- F. The parties to the hearing shall be the Township, any person affected by the application who has made a timely appearance of record before the Board, and any other person including civic or community organizations permitted to appear by the Board. The Board shall have power to require that all persons who wish to be considered parties to the hearing enter appearances in writing on forms provided by the Board for such purpose.
- G. The presiding chairman or acting chairman of the Board or hearing officer shall have the power to administer oaths and issue subpoenas to compel attendance of witnesses and the production of relevant documents and papers, including witnesses and documents requested by parties to the hearing. The parties to the hearing shall have the right to be represented by legal counsel and shall be afforded the opportunity to respond and present evidence and arguments and to cross-examine adverse witnesses on all relevant issues.
- H. Formal rules of evidence shall not apply, but irrelevant, immaterial or unduly repetitious evidence may be excluded.
- I. The Board or the hearing officer, as the case may be, shall keep a stenographic record of the proceedings. The appearance fee for a stenographer shall be shared equally by the applicant and the Board. The cost of the original transcript shall be paid by the Board if the transcript is ordered by the Board or hearing officer, or shall be paid by the person appealing from the decision of the Board, if such appeal is made and in the event the cost of additional copies shall be paid by the person requesting such copies. In other cases the party requesting the original transcript shall bear the cost thereof.
- J. The Board, collectively or individually, or the hearing officer, shall not communicate directly or indirectly with any party or his representatives in connection with any issue before the Board involved except upon notice and opportunity for all parties to participate, shall not take notice of any communication, reports, staff memoranda, or other materials, except advice from its solicitor, unless all parties are afforded an opportunity to contest the material so noticed and shall not inspect the site or its surroundings after the commencement of hearings with any party or his representative unless all parties are given an opportunity to be present.
- K. The Board or the hearing officer, as the case may be, shall render a written decision or, if no decision is called for, make written findings on the application within forty-five days after the close of the last hearing before the Board or hearing officer. If the application is contested or denied, each decision shall be accompanied by findings of fact and conclusions based thereon, together with the reasons therefor. Conclusions based on any provisions of the Ordinance or any other ordinance, rule or regulation, shall contain a reference to the provisions relied upon and the reasons why the conclusion is deemed appropriate in light of the facts found. If the hearing is conducted by a hearing officer, and there has been no stipulation that his decision or

findings are final, the Board shall make his report and recommendations available to the parties of record within forty-five days. The parties shall be entitled to make written representations thereon to the Board prior to final decision or entry of findings, with the Board's decision entered no later than thirty days after the report of the hearing officer. If the Board fails to hold the required hearing within sixty days from the date of the applicant's request for hearing, the decision shall be deemed to have been rendered in favor of the applicant, unless the applicant has agreed in writing or on the record to an extension of time. If a decision has been rendered in favor of the applicant because of their failure of the Board to meet or render a decision as hereinabove provided, the Board shall give public notice of said decision within ten days from the last day it could have met to render a decision in the same manner as provided under Item A of this Section. Nothing contained within this Section shall prejudice the right of any party opposing the application to appeal the decision to a court of competent jurisdiction.

- L. The Zoning Hearing Board shall provide by mail or otherwise, to all persons who have filed their name and address with the Board, not later than the last day of the hearing, a statement of brief notice of the decision or findings and a statement of the place and at which a copy of the full decision or findings may be examined.

SECTION 1507 MEDIATION OPTION

1507.1 Mediation may be utilized as an aid designed to supplement, as opposed to replacing, any proceedings before and under the jurisdiction of the Zoning Hearing Board. In no case, however, shall the Board or any member of the Board, initiate the use of mediation. No member of the Board shall be allowed to participate as a mediating party or be present during any sessions of mediation. Nothing within this Section shall be interpreted as expanding or limiting municipal police powers or modifying any principles of substantive law.

1507.2 Mediation shall be voluntary among all subject parties with the appropriateness of mediation determined by the particular issues of each case and the willingness among all the subject parties to negotiate. In order to supplement proceedings before the Zoning Hearing Board, the following information shall be submitted to the Board in written form and signed by all parties to the mediation, the selected mediator, and the Zoning Hearing Board.

- A. Method and commitment of funding of mediation.
- B. The mediator shall be an attorney and/or an individual who is certified by the American Arbitration Association, who shall possess a working knowledge of municipal zoning and subdivision practices and procedures.
- C. A schedule which shall clearly prescribe the time limitations for both the start and completion of mediation. The completion date shall be adhered to even if the negotiations fail to result in a mediated agreement by said date.

- D. Suspension of the appropriate time limitations which apply to the Zoning Hearing Board in convening a hearing and/or rendering a decision, once a hearing is convened, subject to executing a document of expressed written consent by the mediating parties, and by the Zoning Hearing Board.
- E. Identification of all subject parties and affording them the opportunity to participate.
- F. A determination of whether some or all of the mediation sessions shall be opened or closed to the public, subject to governing legal constraints.
- G. An agreement among the mediating parties, that any mediated solution be in written form and subject to review and approval by the Zoning Hearing Board.
- H. Any mediation which concludes within the prescribed time limits under Item C of this Section, which does resolve in whole or in part, the issues subject to mediation, shall then proceed under the hearing process before the Zoning Hearing Board.
- I. No offer or statements made in the mediation sessions, excluding the final written mediated agreement, shall be admissible as evidence in any subsequent judicial or administrative proceedings.

SECTION 1508 JURISDICTION OF ZONING HEARING BOARD

The Zoning Hearing Board, in accordance with the Pennsylvania Municipalities Planning Code, Act 247, as amended, shall have exclusive jurisdiction to hear and render final adjudication in the following matters:

- A. Substantive challenges to the validity of any land use ordinance, except for those brought before the Board of Supervisors under Section 1403.1 of this Ordinance.
- B. Challenges to the validity of any land use ordinance, based upon procedural questions or alleged defects in the process of enactment or adoption. Challenges based upon procedural questions or alleged defects shall be raised by an appeal to the Board within thirty days after the effective date of the Ordinance subject to the appeal.
- C. Appeals from the determination of the zoning officer, including by not limited to, the granting or denial of any permit, or failure to act on the application therefor, the issuance of any cease and desist order, the revocation of a zoning permit and/or building permit or the registration or refusal to register any nonconforming use, structure or lot.
- D. Appeals from a determination by the zoning officer with reference to the administration of any flood plain provision or regulation within any land use ordinance.

- E. Applications for variances, pursuant to Section 1509 of this Ordinance.
- F. Applications for special exceptions pursuant to Section 1510 of this Ordinance.
- G. Appeals from the determination of the zoning officer or municipal engineer in the administration of any land use ordinance or provision thereof with reference to sedimentation and erosion control and storm water management not related to development which is classified as a subdivision, land development, or a planned residential development.

SECTION 1509 VARIANCES

1509.1 INITIAL DETERMINATION BY ZONING OFFICER

An application for a variance shall not be submitted to or considered by the Zoning Hearing Board until the following procedure has been completed:

1. The applicant submits an application for a Zoning Permit to the Zoning Officer in accordance with Section 1302 of this Ordinance.
2. The Zoning Officer is reviewing the subject application renders a determination that the proposed development and/or use of property fails to comply with an applicable provisions and/or regulations of this Ordinance.
3. The Zoning Officer specifies the applicable Sections of this Ordinance relative to the applicant's need to secure a variance(s) from the Zoning Hearing Board.

1509.2 PROVISIONS FOR GRANTING VARIANCES

The Zoning Hearing Board shall hear requests for variances if it is alleged that the provisions of this Ordinance inflict unnecessary hardship upon the applicant. The Board may by rule prescribe the form of application and may require preliminary application to the zoning officer. The Board may grant a variance, provided that all of the following findings are made where relevant in a given case:

1. That there are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property and that the unnecessary hardship is due to such conditions and not the circumstances or conditions generally created by the provisions of the zoning ordinance in the neighborhood or district in which the property is located.
2. That because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the zoning ordinance and that the authorization of a variance is therefore necessary to enable

the reasonable use of the property.

3. That such unnecessary hardship has not been created by the appellant.
4. That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare.
5. That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible of the regulation in issue.

In granting any variance, the Board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of this Ordinance and the Pennsylvania Municipalities Planning Code, Act 247, as amended.

SECTION 1510 SPECIAL EXCEPTIONS

1510.1 INITIAL DETERMINATION BY ZONING OFFICER

An application for a special exception use shall not be submitted to or considered by the Zoning Hearing Board until the following procedure has been completed:

1. The applicant submits an application for a zoning permit to the Zoning Officer in accordance with Section 1302 of this Ordinance and a Site Plan in accordance with Section 603 of this Ordinance.
2. The Zoning Officer shall initially review the Site Plan to determine its compliance with Section 603 of this Ordinance.
3. The Zoning Officer shall also render a determination regarding whether the proposed development and/or use is required to secure any variances from the Zoning Hearing Board, in addition to securing a special exception approval.

1510.2 PROVISIONS FOR GRANTING A SPECIAL EXCEPTION APPROVAL

The Zoning Hearing Board shall hear and decide requests for uses and/or development which are permitted as special exception uses. Special exception uses shall be referred to the Planning Commission for their review, comments and recommendations prior to final action by the Board. The Board shall grant approval only upon the determination that the proposed use and/or development conforms with all applicable standards and provisions within this Ordinance and the following expressed standards and criteria:

1. Public services and facilities such as streets, sewers, water, police, and fire protection shall be adequate for the proposed use and/or development.

2. Existing and future streets and access to the site shall be adequate for emergency services, for avoiding undue congestion, and for providing for the safety and convenience of pedestrian and vehicular traffic.
3. The relationship of the proposed use and/or development to other uses and activities existing or planned in the vicinity shall be harmonious in terms of the location and site relative to the proposed operation, and the nature and intensity of the operation involved.
4. The relationship of the proposed use and/or development to other activities existing or planned in the vicinity shall be harmonious in terms of the character and height of buildings, walls, and fences so that the use, development, and value of adjacent property is not impaired.
5. The proposed use and/or development shall not be more objectionable in its operations in terms of noise, fumes, odors, vibration, or lights than would be the operations of any permitted use in the district.
6. The proposed use and/or development shall not be injurious to the public interest.

In granting approval, the Zoning Hearing Board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of this Ordinance and the Pennsylvania Municipalities Planning Code, Act 247, as amended.

SECTION 1511 PARTIES APPELLANT BEFORE THE BOARD

Appeal and/or applications for hearings before the Zoning Hearing Board pursuant to those matters contained within Section 1508 of this Ordinance, may be filed with the Board in writing by the affected landowner or by any aggrieved person or party. The Board shall not accept appeals or applications for hearings from any tenant or equitable owner of a property without the express written consent of the landowner. In such cases, the landowner's signature shall be required upon all applicable forms, applications or documents which are to be submitted to the Board.

SECTION 1512 TIME LIMITATIONS

- 1512.1** No person shall be allowed to file any proceeding with the Zoning Hearing Board later than thirty (30) days after an application for the development, preliminary or final, has been approved by an appropriate municipal officer, agency or body if such proceeding is designed to secure reversal or to limit the approval in any manner unless such person alleges and proves that he had no notice, knowledge, or reason to believe that such approval had been given. If such person has succeeded to his interest after such approval, he shall be bound by the knowledge of his predecessor in interest. The failure of anyone other

than the landowner to appeal from an adverse decision on a tentative plan for a Planned Residential Development, pursuant to Section 709 of the Pennsylvania Municipalities Planning Code, Act 247, as amended, or from an adverse decision by a zoning officer on a challenge to the validity of an ordinance or map based upon substantive grounds, pursuant to Section 916.2 of the Pennsylvania Municipalities Planning Code, Act 247, as amended, shall preclude an appeal from a final approval except in the case where the final submission substantially deviates from the approved tentative approval.

- 1512.2** Any landowner wishing to appeal a decision of the Zoning Hearing Board shall be required to file such appeal to a court of competent jurisdiction within thirty days after the notice of the Board's determination is issued. Failure to do so within the prescribed thirty day time period shall preclude any further appeal of the Board's decision.

SECTION 1513 STAY OF PROCEEDINGS

- 1513.1** Upon filing of any proceeding referred to in Section 1508 of this Ordinance, and during its pendency before the Zoning Hearing Board, all land development pursuant to any challenged ordinance, order or approval of the Zoning Officer or of any agency or body, and all official action thereunder, shall be stayed unless the Zoning Officer or any other appropriate agency or body certifies to the Board facts indicating that such stay would cause imminent peril to life or property, in which case the development or official action shall not be stayed otherwise than by a restraining order, which may be granted by the Board or by the court having jurisdiction of zoning appeals, on petition, after notice to the zoning officer or other appropriate agency or body. When the application for development, preliminary or final, has been duly approved and proceedings designed to reverse or limit the approval are filed with the Board by persons other than the applicant, the applicant may petition the court having jurisdiction of zoning appeals to order such persons to post a bond as a condition to continuing the proceedings before the Board.

- 1513.2** After the petition is presented, the court shall hold a hearing to determine if the filing of the appeal is frivolous. At the hearing, evidence may be presented on the merits of the case. It shall be the burden of the applicant for a bond to prove the appeal is frivolous. After consideration of all the evidence presented, if the court determines that the appeal is frivolous, it shall grant the petition for a bond. The right to petition the court to order the appellants to post bond may be waived by the appellee, but such waiver may be revoked by him if an appeal is taken from a final decision of the court.

- 1513.3** The question whether or not such petition should be granted and the amount of the bond shall be within the sound discretion of the court. An order denying a

petition for bond shall be interlocutory. An order directing the responding party to post a bond shall be interlocutory.

1513.4

If an appeal is taken by a respondent to the petition for a bond from an order of the court dismissing a zoning appeal for refusal to post a bond and the appellate court sustains the order below to post a bond, the respondent to the petition for a bond, upon motion of the petitioner and after hearing in the court having jurisdiction of zoning appeals, shall be liable for all reasonable costs, expenses, and attorney fees incurred by the petitioner.

SECTION 1514 APPEALS TO COURT

The procedures set forth in Article X-A of the Pennsylvania Municipalities Planning Code, Act 247, as amended, shall constitute the exclusive mode for securing judicial review of any decision rendered or deemed to have been made under this Ordinance.

ARTICLE 16

PLANNED RESIDENTIAL DEVELOPMENTS

SECTION 1601 PURPOSE

The purpose of this district, as stated in the Pennsylvania Municipalities Planning Code, Act 247, as amended, is to achieve the following:

- A. To insure that the provisions of the Foster Township Zoning Ordinance, which are concerned with the uniform treatment of dwelling type, bulk, density and open space within each zoning district, shall not be applied to the improvement of land by other than lot-by-lot development in a manner which would distort the objectives of the Ordinance.
- B. To encourage innovations in residential development and renewal so that the growing demand for housing may be met by greater variety in type, design and layout of dwellings and by the conservation and more efficient use of open space ancillary to said dwellings.
- C. To provide greater opportunities for better housing and recreation for all who are or may become residents of the Township.
- D. To encourage a more efficient use of land and public services and to reflect changes in the technology of land development so that the economies so secured may insure the benefits of those who need housing.
- E. To encourage more flexible land development which will respect and conserve natural resources such as streams, flood plains, groundwater, wooded areas, and areas of unusual attractiveness in the natural environment.
- F. In aid of the purpose stated within this Section, to provide a procedure which can regulate the type, design and layout of a residential development to the particular site and particular demand for housing existing at the time of development in a manner consistent with the preservation of property values within existing residential areas. To assure that the increased flexibility of regulations over land development established hereby is carried out pursuant to sound, expeditious and fair administrative standards and procedures.

SECTION 1602 REGULATORY AUTHORITY

The authority to approve or disapprove applications and plans for a planned residential development shall be vested with the Foster Township Board of Supervisors with the Foster Township Planning Commission acting in a advisory capacity to review and to provide comment to the Board of Supervisors.

SECTION 1603 USE REGULATIONS

The principal permitted uses shall include:

- A. Single-family Detached Dwellings
- B. Two-family Dwellings
- C. Townhouses
- E. Accessory Uses: Customary accessory uses and buildings to the above shall be permitted in accordance with the applicable provisions of this Ordinance.
- F. Special Exception Uses: Home Occupations

SECTION 1604 DENSITY REGULATIONS

The density of a Planned Residential Development, based upon the existing residential zoning district in which the Planned Residential Development is proposed to be established, shall not exceed the minimum lot area per dwelling unit as provided for in the Township's Zoning Ordinance, along with the corresponding maximum lot coverage requirements and required Common Open Space requirements as set forth in Section 1605 of this Ordinance.

SECTION 1605 DIMENSIONAL REGULATIONS

All planned residential developments shall be subject to the following:

- A. Minimum Lot Area: A planned residential development shall have an area of not less than ten (10) acres.
- B. Distance Between Buildings: No buildings or structure, including porches, decks or balconies shall be less than thirty (30') feet to any other building or structure.
- C. Setback Requirements: The minimum front, side and rear setbacks for a Planned Residential Development shall each be not less than fifty (50) feet to the property lines of adjoining properties. A planting strip of not less

than twenty (20) feet in width shall be along all property lines at the periphery of the development where necessary to preserve the privacy of neighboring residents.

Land adjacent to a lake, pond, stream, wetlands, or watercourse shall remain as permanent open space for a distance of not less than one hundred (100') feet from the water's edge, unless superseded by more restrictive standards.

- D. Common Open Space: Not less than twenty (20%) percent of the total area of a Planned Residential Development, excluding streets and off-street parking areas, shall be designated, designed and devoted to common open space for the use and enjoyment of the residents therein.

SECTION 1606 DEVELOPMENT REGULATIONS

A Planned Residential Development shall be subject to the following standards and regulations:

- A. Requirements For Improvements and Design: All improvements, including but not limited to, streets, curbing, sidewalks, stormwater detention facilities, drainage facilities, water supply facilities, sewage disposal, street lighting, tree lawns, etc., unless otherwise exempted, shall be designed and constructed in conformance with the standards and requirements of the Foster Township Subdivision and Land Development Ordinance.
- B. Sewage Disposal: Disposal of sanitary sewage shall be by means of centralized sewers and shall conform to the design standards of the Foster Township Subdivision and Land Development Ordinance. The proposed sewage collection system and treatment facility shall require DER approval as a prerequisite and/or condition to tentative approval of a development plan.
- C. Water Supply: The water supply may be an on-site or off-site system. If the water is to be provided by means other than private wells, owned and maintained by individual owners of lots within the planned residential development, evidence shall be provided that the planned residential development is to be supplied by a certified public utility, a bona fide cooperative association of lot owners, or by a municipal corporation, authority or utility. A copy of a Certificate of Public Convenience from the Pennsylvania Public Utility Commission or an application for such certificate, a cooperative agreement or a commitment or agreement to serve the planned residential development in question shall be required. Whichever form is appropriate, shall be considered as acceptable evidence.

SECTION 1607 LOCATION/MANAGEMENT OF COMMON OPEN SPACE

Common open space within a planned residential development shall be designed as a contiguous area which shall be easily accessible to the residents. A planned residential development must insure that the common open space shall remain as such and be properly maintained by the developer's compliance with one of the following:

- A. Dedicate such land to public use, providing the Township will accept such dedication.
- B. Retain ownership and responsibility for maintenance of such land.
- C. Provide for and establish an organization for the ownership and maintenance of such land, which includes provisions that such organization shall not be dissolved nor shall it dispose of such land, by sale or otherwise (except to an organization conceived and established to own and maintain the common open space), without first offering to dedicate such land to the Township.

The Township shall utilize the appropriate procedures and remedies, as set forth in Article 7 of the Pennsylvania Municipalities Planning Code, Act 247, as amended, should an organization established to own and maintain common open space fail to do so in a reasonable order and conditioned in accordance with the development plan.

SECTION 1608 PHASING OF DEVELOPMENT

A planned residential development may be constructed in phases subject to the following:

- A. The application for tentative approval shall cover the entire area to be developed with a schedule delineating all proposed phases, as well as the dates by which applications for final approval of each phase shall be filed. Such schedule shall be updated annually by the applicant on or before the anniversary date of the approval of the development plan, until all phases are completed and granted final approval by the Township Board of Supervisors. Any modification in the aforesaid schedule shall be subject to approval of the Township Board of Supervisors in its discretion.
- B. Not less than fifteen (15%) percent of the total number of dwelling units to be constructed shall be included in the first phase.
- C. The second and any subsequent phases shall be completed in accordance with the tentatively approved plan, with each phase containing not less than fifteen (15%) of the total number of dwelling units.

- D. The Township Board of Supervisors may impose further conditions upon the filing of any phase of a development plan, as it may deem necessary to assure the orderly development of the plan and/or to protect the public health, safety and welfare.

**SECTION 1609 ENFORCEMENT AND MODIFICATION OF PROVISIONS
OF PLAN**

To further the mutual interest of the residents of the planned residential development and of the public in the preservation of the integrity of the development plan, as finally approved, and to insure that modifications, if any, in the development plan shall not impair the reasonable reliance of said residents upon the provisions of the development plan, nor result in changes that would adversely affect the public interest, the enforcement and modifications of the provisions of the development as finally approved, whether those are recorded by plat, covenant, easement or otherwise, shall be subject to the following:

- A. Provisions of the development plan relating to the use, bulk and location of buildings and structures; the quantity and location of common open space, except as otherwise provided herein; and the intensity of use or the density of residential units shall run in favor of the Township and shall be enforceable in law or in equity by the Township, without limitation on any powers of regulation otherwise granted the Township by law.
- B. All provisions of the development plan shall run in favor of the residents of the planned residential development, but only to the extent expressly provided in the development plan and in accordance with the terms of the development plan, and to that extent said provisions, whether recorded by plat, covenant, easement or otherwise, may be enforced at law or in equity by said residents acting individually, jointly or through an organization designated in the development plan to act on their behalf; provided, however, that no provisions of the development plan shall be implied to exist in favor of residents of the planned residential development except as to those portions of the development plan which have been finally approved and have been recorded.
- C. All those provisions of the development plan authorized to be enforced by the Township under this Section may be modified, removed or released by the Township, except grants of easements relating to the service or equipment of a public utility, subject to the following conditions:
- (1) No such modification, removal or release of the provisions of the development plan by the Township shall affect the rights of the residents of the planned residential development to maintain and

enforce those provisions, at law or in equity, as provided in this Section.

- (2) No modification, removal or release of the provisions of the development plan by the Township shall be permitted except upon a finding by the Township Board of Supervisors, after a review by the Planning Commission, following a public hearing pursuant to public notice, called and held in accordance with the provisions of this Section, that the same is consistent with the efficient development and preservation of the entire planned residential development, does not adversely affect either the enjoyment of land abutting upon or across the street from the planned residential development or public interest, and is not granted solely to confer a special benefit upon any person.

- D. Residents of the planned residential development may, to the extent and in the manner expressly authorized by the provisions of the development plan, modify, remove or release their rights to enforce the provisions of the development plan, but no such action shall affect the right of the Township to enforce the provisions of the development plan in accordance with the provisions of this Section.

SECTION 1610 APPLICATION FOR TENTATIVE APPROVAL

The application for approval, tentative and final, of a planned residential development as provided for by this Ordinance, shall be in lieu of all other procedures or approvals otherwise required by the Zoning Ordinance and Subdivision and Land Development Ordinance of the Township, except where specifically indicated. The procedures herein described for approval or disapproval of a development plan for a planned residential development and the continuing administration thereof are established in the public interests in order to provide an expeditious method for processing a development plan for a planned residential development and to avoid the delay and uncertainty which would arise if it were necessary to secure approval, by a multiplicity of local procedures, of a plat of subdivision as well as approval of a change in the zoning regulations otherwise applicable to the property. An application for tentative approval shall be consistent with the following:

A. Informal Consultation:

The landowner, Township Board of Supervisors, and Planning Commission may consult informally at a public meeting or work session concerning the proposed planned residential development prior to the filing of an application for tentative approval, provided that no statement or representation by a member of the Township Board of Supervisors or of the Planning Commission shall be binding upon the Township Board of Supervisors or Planning Commission as a whole. The informal

consultation is intended to allow the landowner and Township officials to exchange comments and discuss issues which may be of particular significance to the site.

B. Application and Fee:

An application for tentative approval shall be filed by or on behalf of the landowner with the Zoning Officer. An application fee of two hundred and fifty (\$250.00) dollars, plus seventy-five (\$75.00) dollars per housing unit, based upon total number of proposed housing units, shall be paid upon filing the required application.

C. Relationship to Planning, Zoning and Subdivision:

All planning, zoning and subdivision matters relating to the platting, use and development of the planned residential development and subsequent modifications of the regulations relating thereto, to the extent such modification is vested in the Township, shall be determined and established by the Township Board of Supervisors with prior review by the Planning Commission.

D. Required Documentation:

The application for tentative approval shall include documentation illustrating compliance with all of the standards for a planned residential development and, where necessary, the Township shall order such documentation to aid them in their review.

An original and fifteen (15) copies of the application shall be submitted along with twenty (20) copies of each of the following:

1. Any required study and/or report, prepared as an Impact Analysis, which may be required at the discretion of the Township Board of Supervisors. A determination of the need for any such study and/or report may be made at the time of the informal consultation or during the public hearing for consideration of tentative approval of the development plan.
2. The development plan for the entire site, which shall include conformance to the requirements of Section 1604, Section 1606 and Section 1606 of this Ordinance, along with the information and documentation noted herein:
 - (a) The location, size and topography of the site and the legal nature of the landowner's interest in the land proposed to be developed.

- (b) The density of land use to be allocated to parts and/or phases of the site to be developed.
- (c) The location and size of common open space and the form of organization proposed to own and maintain the common open space.
- (d) The use and height, bulk and location of buildings and other structures.
- (e) The means and feasibility of proposals for the disposition of sanitary waste and storm water.
- (f) The substance of covenants, grants or easement or other restrictions proposed to be imposed upon the use of the land, buildings and structures including proposed easements or grants for public utilities.
- (g) Provisions for parking of vehicles and the location and width of proposed streets and any other form of public right-of-ways, excluding common open space.
- (h) The required modifications in the Township land use regulations as contained within the Township's Zoning Ordinance and Subdivision and Land Development Ordinance, otherwise applicable to the subject property.
- (i) The feasibility of proposals for energy conservation and the effective utilization of renewable energy sources.
- (j) In the case of development plans, which call for development over a period of years, a schedule showing the proposed timetable within which applications for final approval of all phases of the planned residential development are intended to be filed. This schedule must be updated annually, on the anniversary of its approval, until the development is completed and accepted.
- (k) A plan map at a scale of not greater than one (1") inch equals fifty (50') feet, with contours for each two (2') feet change in elevation. A location map shall also be provided at a scale of not greater than

one (1) inch equals two thousand (2,000) feet, indicating the relation of the site to its geographic proximity within the Township. The drafting standards applicable for a major subdivision and/or land development, as provided for within the Foster Township Subdivision and Land Development Ordinance, shall apply.

E. Statement of Landowner:

The application shall also include a written statement by the landowner setting forth the reasons why, in his opinion, the planned residential development would be in the public interest and consistent with the Comprehensive Plan of the Foster Township, including any subject amendments to said Plan.

F. Application and Approval Procedures in Lieu of Others:

The application for tentative and final approval of a development plan for a planned residential development prescribed herein shall be in lieu of all other procedures and approvals required by the Zoning Ordinance and Subdivision and Land Development Ordinance of the Township, unless otherwise expressly stated.

G. Referrals and Review of Plan:

The application for tentative approval shall be filed with the Zoning Officer, who shall be authorized to accept such applications under the Zoning Ordinance. Copies of the application and tentative plan shall be referred to the agencies and officials identified in Section 304.3 of the Township's Subdivision and Land Development Ordinance for their review and comment. The Township Planning Commission shall submit their report to the Township Board of Supervisors for the public hearing.

SECTION 1611 PUBLIC HEARINGS

Within sixty (60) days after the filing of an application for tentative approval of a planned residential development pursuant to this Article, a public hearing pursuant to public notice on said application shall be held by the Township Board of Supervisors in the manner prescribed in the Ordinance for the enactment of an amendment to the Zoning Ordinance.

The chairman or in his absence, the acting chairman, of the Township Board of Supervisors, may administer oaths and compel the attendants of witnesses. All testimony by witnesses shall be given under oath and every party of record at a hearing shall have the right to cross-examine adverse witnesses.

A verbatim record of the hearing shall be provided by the Township Board of Supervisors whenever such records are requested by any party to the proceedings, with the cost of making and transcribing such a record shall be paid by those parties wishing to obtain such copies. All exhibits accepted as evidence shall be properly identified and the reason for any exclusion shall be clearly noted in the record.

The Township Board of Supervisors may continue the public hearing as required provided that in any event, the public hearing or hearings shall be concluded within sixty (60) days following the date of the first public hearing.

SECTION 1612 FINDINGS

The Township Board of Supervisors, within sixty (60) days following the conclusion of the public hearing, shall by official written communication to the landowner, either:

- A. Grant tentative approval to the development plan as submitted.
- B. Grant tentative approval subject to specified conditions not included in the development plan as submitted.
- C. Deny the tentative approval to the development plan.

Failure to act within the prescribed time period shall be deemed to be a grant of tentative approval of the development plan as submitted. In the event, that tentative approval is granted subject to conditions, the landowner may, within thirty (30) days after receiving a copy of the official written communication of the Township Board of Supervisors, notify said Board of his refusal to accept all said conditions, in which case the Township Board of Supervisors shall be deemed to have denied tentative approval of the development plan. In the event the landowner does not notify the Township Board of Supervisors of his refusal to accept all said conditions within thirty (30) days after receiving a copy of the official written communication of the Township Board of Supervisors, tentative approval of the development plan, with all said conditions, shall stand as granted.

The grant or denial of tentative approval by official written communication shall include not only conclusions, but also findings of fact related to the specific proposal and shall set forth the reasons for the denial, and said communication shall set forth particulars in what respect the development plan would or would not be in the public interest including but not limited to findings of facts and conclusions based upon the following:

- A. Those respects in which the development plan is or is not consistent with the Comprehensive Plan, including any amendments thereto, for the development of the Township.

- B. The extent to which the development plan departs from zoning and subdivision regulations otherwise applicable to the subject property, including but not limited to density, bulk and use and the reasons why such departures are or are not deemed to be in the public interest.
- C. The purpose, locations and amount of common open space in the planned residential development, the reliability of the proposals for maintenance and conservation of the common open space and the adequacy or inadequacy of the amount and purpose of the common open space as related to the proposed density and type of residential development.
- D. The physical design of the development plan and the manner in which said design does or does not make adequate provisions for public services, (including but not limited to sewage, water and stormwater runoff) provide adequate control for vehicular traffic, and further the amenities of light and air, recreation and visual enjoyment.
- E. The relationship, beneficial or adverse, of the proposed planned residential development to the neighborhood or area of the Township in which it is proposed to be established.
- F. In the case of a development plan which proposes development over a period of years, the sufficiency of the terms and conditions intended to protect the interest of the public and of the residents of the planned residential development in the integrity of the development plan.

In the event a development plan is granted tentative approval, with or without conditions, the Township Board of Supervisors may set forth in the official written communication, the time within which an application for final approval of the development plan shall be filed or, in the case of a development plan which provides for development over a period of years, the periods of time within which applications for final approval of each part or phase thereof shall be filed. Except upon the consent of the landowner, the time so established between grant of tentative approval and an application for final approval shall not be less than ninety (90) days. In the case of development plans which extend over a period of years, the time between applications for final approval of each part of the plan shall not be less than one (1) year.

SECTION 1613 STATUS OF PLAN AFTER TENTATIVE APPROVAL

The official written communication provided for in this Article shall be certified by the Township Secretary and filed in his/her office; a certified copy shall be mailed to the landowner. Where tentative approval has been granted, it shall be deemed as an amendment to the Zoning Map, effective and so noted upon the Zoning Map upon final approval.

Tentative approval of a development plan shall not qualify a plan of the planned residential development for recording nor authorize development or the issuance of any zoning permit. A development plan, which has been given tentative approval with conditions which have been accepted by the landowner (and provided that the landowner has not defaulted nor violated any of the conditions of the tentative approval), shall not be modified or revoked nor otherwise impaired by action of the Township pending the application or applications for final approval, without the consent of the landowner, provided an application for final approval is filed or, in the case of development over a period of years, provided applications are filed within the periods of time specified in the official written communication granting tentative approval.

In the event that a development plan is given tentative approval and thereafter, but prior to the final approval, the landowner shall elect to abandon said development plan and shall so notify the Township Board of Supervisors in writing, or in the event the landowner shall fail to file application or applications for final approval within the required period of time or times, as the case may be, the tentative approval shall be deemed to be revoked and all that portion of the area included in the development for which final approval has not been given shall be subject to those Township land use ordinances otherwise applicable thereto. The same shall be noted on the Zoning Map and in the records of the Township Secretary.

SECTION 1614 APPLICATION FOR FINAL APPROVAL

An application for final approval may be for all of the land included in a development plan or, to the extent set forth in the tentative approval, a section thereof. Said application shall be made through the Zoning Officer for review by the Township Planning Commission and subject to approval by the Township Board of Supervisors within the time or times specified by the official written communication granting tentative approval. If the application for final approval is in compliance with the tentatively approved development plan, a public hearing shall not be required.

The application shall include all drawings, specifications for required improvements, covenants, easements, a financial guarantee and all other such requirements as specified under Section 1610 (D) of this Ordinance and under Section 504 and Section 505 of the Foster Township Subdivision and Land Development Ordinance, as well as any conditions set forth in the official written communication granting tentative approval.

In the event that the application for final approval has been filed, together with all drawings, specifications and other documents in support thereof, and as required by the Ordinance and the official written communication of tentative approval, the Township Board of Supervisors shall, within forty-five (45) days of such filing, grant such development plan final approval.

In the event the development plan as submitted contains variations from the development plan given tentative approval, the Township Board of Supervisors may

refuse to grant final approval and shall, within forty-five (45) days from the filing of the application for final approval, so advise the landowner in writing of said refusal, setting forth in said notice the reasons why one (1) or more said variations are objectionable and not in the public interest.

In the event of such refusal the landowner may either:

- A. Refile his application for final approval without the variations to which the Township Board of Supervisors deemed objectionable and not in the public interest.
- B. File a written request with the Township Board of Supervisors that it hold a public hearing on his/her application for final approval.

If the landowner wishes to take either of such alternate action, he may do so at any time within which he shall be entitled to apply for final approval, or within thirty (30) additional days if the time for applying for final approval shall have already passed at the time when the landowner was advised that the development plan was not in substantial compliance. In the event the landowner shall fail to take either of these alternate actions within said time, he/she shall be deemed to have abandoned the development plan.

Any such public hearing shall be held pursuant to public notice within thirty (30) days after the request for the hearing is made in writing by the landowner. The hearing shall be conducted in the manner prescribed in this Ordinance for public hearings on applications for tentative approval. Within thirty (30) days after the conclusion of the public hearing, the Township Board of Supervisors shall, by official written communication, either grant final approval to the development plan or deny final approval.

The grant or denial of final approval of the development plan shall, in cases arising under this Section, be in the form and contain findings required for an application for tentative approval as set forth in this Article.

A development plan, or any part thereof, which has been given final approval, shall be so signed and certified without delay by the Township Board of Supervisors. Said development plan shall be filed of record forthwith in the Office of the Recorder of Deeds of Luzerne County before any development shall take place in accordance therewith. Upon filing of record of the development plan, the zoning and subdivision regulations otherwise applicable to the land included in such plan shall cease to apply thereto. Pending completion in accordance with the time provisions as provided for under Section 105 and Section 106 of the Foster Township Subdivision and Land Development Ordinance, said planned residential development or part thereof, as the case may be, that has been finally approved, no modification of the provisions of said development plan, or part thereof, as finally approved, shall be made except with the consent of the landowner. Upon approval of a final plat the developer shall record the

plat within ninety (90) days from the date of approval and post a financial security in accordance with Article 7 of the Foster Township Subdivision and Land Development Ordinance.

In the event that a development plan, or section thereof, is given final approval and thereafter the landowner shall abandon such plan or section thereof that has been finally approved, and shall so notify the Township Board of Supervisors in writing; or in the event the landowner shall fail to commence and carry out the planned residential development in accordance with the time provisions as provided for under Section 105 and Section 106 of the Foster Township Subdivision and Land Development Ordinance, after final approval has been granted, no development or further development shall take place on the property included in the development plan until after the said property is resubdivided and is reclassified by enactment of an amendment to the Township Zoning Ordinance in the manner prescribed for such amendments by this Ordinance.

SECTION 1615 LEGAL PROCEEDINGS AND ENFORCEMENT REMEDIES

Any person, partnership or corporation, who or which has violated the provisions of this Article, shall be prosecuted in accordance with Section 712.1 and Section 712.2 of the Pennsylvania Municipalities Planning Code, Act 247, as amended.

**SECTION 1616 · DIMENSIONAL REGULATIONS FOR PLANNED
RESIDENTIAL DEVELOPMENTS**

TABLE 1

**MINIMUM AVERAGE LAND AREA PER DWELLING UNIT
(SQUARE FEET)**

<u>RESIDENTIAL TYPE</u>	<u>R-1</u>	<u>R1-A</u>	<u>R-2</u>	<u>A-1</u>
Detached Single Family	10,000	20,000	6,000	20,000
Two Family	6,000	10,000	6,000	10,000
Multifamily	7,000	10,000	6,000	10,000
Townhouse	7,000	10,000	6,000	10,000
<u>RESIDENTIAL TYPE</u>	<u>R-1</u>	<u>R1-A</u>	<u>R-2</u>	<u>A-1</u>
<u>COMMON OPEN SPACE</u>	20%	20%	20%	20%
<u>MAXIMUM LAND COVERAGE</u>	25%	20%	30%	20%
<u>MAXIMUM BUILDING HEIGHT</u> (stories)	2.5	2.5	2.5	2.5

Two (2) steps are required to calculate the net residential area per dwelling unit. Subtract the amount of land to be utilized for street right-of-ways, off-street parking from the total gross acreage of the site. Divide the remaining acreage by the total number of dwelling units.

Land coverage shall include all structures, buildings, off-street parking areas and any recreational facilities within the site.