

FOSTER TOWNSHIP 2015 ZONING ORDINANCE

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**FOSTER TOWNSHIP
2015
ZONING ORDINANCE
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ARTICLE 1
GENERAL PROVISIONS

SECTION 101 TITLE

This Ordinance shall be known and may be cited as "**The Foster Township Zoning Ordinance of 2015.**"

SECTION 102 PURPOSE

This Ordinance is enacted to accomplish the purposes enumerated in Section 604 of the Pennsylvania Municipalities Planning Code, Act 247, as amended which includes the following:

1. To promote, protect and facilitate one or more of the following: the public health, safety, morals, general welfare, coordinated and practical community development, proper density of population, emergency management preparedness, airports and national defense facilities, the provisions of adequate light and air, access to incident solar energy, police protection, vehicle parking and loading space, transportation, water, sewage, schools, recreational facilities, public grounds, the provision of a safe, reliable and adequate water supply for domestic, commercial, agricultural or industrial use, and other public requirements; as well as preservation of natural, scenic and historic values in the environment and preservation of forests, wetlands, aquifers and floodplains.
2. 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.
3. To preserve prime agriculture and farmland considering topography, soil type and classification, and present use.
4. To provide for the use of land within the Township 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 this Ordinance shall not be deemed invalid for the failure to provide any other specified dwelling type.
5. To accommodate reasonable overall community growth, including population and employment growth, and opportunities for development of a variety of residential dwelling types and nonresidential uses.

SECTION 103 COMMUNITY OBJECTIVES

The enactment of this Ordinance is intended to promote the public health, safety, morals, and welfare of the present and future residents of the Township by providing foster Township with procedures which will assist in directing growth and development in accordance with stated goals and objectives of the Foster Township Comprehensive Plan, as amended

SECTION 104 SEVERABILITY

If any article, section, subsection, paragraph sentence or phrase of this Ordinance is for any reason declared to be invalid, illegal or unconstitutional by any court of competent jurisdiction, such decision shall not affect the validity of this Ordinance as a whole or any other part thereof.

SECTION 105 REPEALER.

The Foster Township Zoning Ordinance of 1989, as amended, is hereby repealed. All other ordinances, or parts thereof, which are inconsistent or in conflict with this Ordinance are also hereby repealed to the extent of any inconsistency or conflict.

SECTION 106 PROCEDURAL DEFECT

Any allegation that this Ordinance or any amendment thereto has been enacted in a procedurally defective manner shall be appealed as provided by state law and must be filed no more than 30 days after the intended effective date of this Ordinance or any amendment thereto.

SECTION 107 EFFECTIVE DATE. This Ordinance shall become effective immediately upon its date of enactment as set forth in Section 108 below.


SECTION 108 ENACTMENT

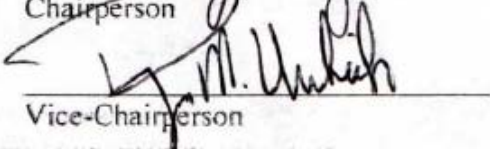
The Board of Supervisors of Foster Township, Luzerne County, Pennsylvania, by the authority of and pursuant to the provisions of the Pennsylvania Municipalities Planning Code, Act of 1968, P.L. 805, No. 247, as reenacted and amended, do hereby enact and ordain into an ordinance the "Foster Township Zoning Ordinance of 2015" this 28th day of December, 2015.

ATTEST:

FOSTER BOARD OF TOWNSHIP SUPERVISORS:

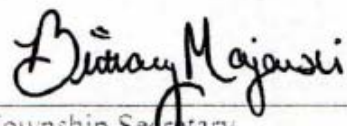
BY:


Chairperson


Vice-Chairperson


Supervisor

ATTEST:


Township Secretary

ARTICLE 2 DEFINITIONS

SECTION 201 APPLICATION AND INTERPRETATION

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

1. Words used in the present tense shall include the future tense.
2. The word “person” shall include a profit or nonprofit corporation, company, partnership, or individual.
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 occupies.
4. The word “building” shall include “part thereof” and “structure.”
5. The word “lot” shall include “plot” or “parcel.”
6. The word “shall” is always mandatory.
7. The singular number shall include the plural, and the plural the singular.
8. The masculine gender shall include the feminine and neuter.
9. The word “street” shall include “road,” “highway,” and “lane.”

SECTION 202 TERMS OR WORDS NOT DEFINED

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

SECTION 203 DEFINITIONN

ABANDONMENT:

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

ABUTTING:

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

ACCESS:

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

ACCESSORY STRUCTURE:

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

ACCESSORY USE:

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

ADJOINING PROPERTY:

A property having a contiguous property boundary with a separate property, including properties with any amount of opposite front, rear or sideyard areas that are separated by a right-of-way, alley, or easement.

AGRICULTURAL USE:

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 are secondary to that of normal agricultural activities, and provided further that the use does not include commercial hog farms, fur farms, or fertilizer plants.

AGRI-TOURISM:

An activity or operation that is agriculturally based and brings in visitors to a farm or ranch, including buying produce direct from a farm stand, navigating a corn maze, picking fruit, feeding animals or staying at a Bed and Breakfast on a farm.

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.

ANIMAL CEMETERY:

A place where three or more animals, either agricultural or domesticated, are buried or cremated. This term includes crematories, mortuaries and mausoleums

ANIMAL HOSPITAL:

A building or structure used for the treatment of domesticated animals by a veterinarian or other medical practitioner licensed by the state, with short-term boarding incidental to the treatment.

APPLICANT:

The person or entity filing an application under this Ordinance.

AS-BUILT DRAWINGS:

Construction plans prepared after the completion of construction, by the engineer of record, in such a manner as to accurately identify and depict the location and design of all on-site improvements, which includes but is not limited to streets, structures, parking facilities, stormwater detention/retention areas, curbs, sidewalks and any other facilities approved for the subject development. As-Built Drawings shall be sealed by the engineer of record.

ASPHALT, BATCH OR CONCRETE PLANT:

An industrial facility used for the production of asphalt or concrete, or asphalt or concrete products, used in building or construction, and includes facilities for the administration or management of the business, the stockpiling of bulk materials used in the production process or of finished products manufactured on the premises and the storage and maintenance of required equipment.

AUTOMOTIVE REPAIR GARAGE:

A building where repairs, improvements and installation of parts and accessories for motor vehicles are conducted that involves work that is more intense in character than work permitted under the definition of "Gas Station, Limited-Service." An auto repair garage shall include, but not be limited to, any use that involves any of the following work: both minor and major mechanical overhauling, paint, and body work. In addition, any use permitted under the definition of a "Gas Station, Limited-Service." is also permitted as part of an Automotive Repair Garage.

AUTOMOTIVE SALES:

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

AUTOMOBILE WRECKING YARD (ALSO SEE JUNK YARD)

The dismantling or wrecking of junked motor vehicles or trailers, or the storage, sale, or dumping of dismantled or junked 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.

BED AND BREAKFAST:

An owner-occupied dwelling containing 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 principal structure.

BIG BOX RETAIL STORE:

A physically large retail establishment, usually part of a chain where the building footprint is equal to or greater than 50,000 square feet. The term sometimes also refers, by extension, to the company that operates the store. A Big Box Retail Store can generally be broken down into two categories: general merchandise (examples include Wal-Mart and Target), and specialty stores (such as Home Depot, Lowes, Barnes and Noble, or Best Buy) which specialize in goods within a specific range, such as hardware, books, or electronics.

BOARDING HOUSE:

A residential use in which any or all of the following applies:

- (1) individual room(s) that do not meet the definition of a dwelling unit are rented for habitation by a total of 2 or more persons who are not "related" to the owner of record of the property, or

- (2) a dwelling unit that includes a greater than the permitted maximum number of unrelated persons (see the definition of “family”), or
- (3) if individual units of living space not meeting the definition of a dwelling unit are separately rented to person(s) who are not “related” to the owner of record of the property. Individual leases shall be deemed to have a dwelling unit classified as a boarding house

A boarding house shall not include the following uses: treatment center, abused person shelter, hotel, dormitory, motel, assisted living center, bed and breakfast use, group home or nursing home. A boarding house may either involve or not involve the providing of meals to residents.

BOTTLE CLUB OR B.Y.O.B. CLUB:

An establishment operated for profit or pecuniary gain which has a capacity for the assemblage of 20 or more persons and in which alcoholic liquors, alcohol or malt or brewed beverages are not legally sold but where alcoholic liquors, alcohol or malt or brewed beverages are either provided by the operator or agents or employees of the operator for consumption on the premises or are brought into or kept at the establishment by the patrons or persons assembling there for use and consumption. The term shall not include a license under the Act of April 12, 1951 (P.L. 90, No. 21) known as the "Liquor Code" or any organization as set forth in Section 6 of the Act of December 19, 1990 (P.L. 1200, No. 202) known as the "Solicitation of Funds for Charitable Purposes Act. Said Club shall not be operated in a manner in which it could also be classified as either an After Hours Club or a Sexual Oriented Business as so defined by this Ordinance.

BUFFER AREA:

A method of improvements designed to separate and substantially obstruct the view of two adjacent land uses or properties from one another. Unless specified otherwise, for the purpose of this Ordinance when a buffer area is required it shall be deemed to represent a solid 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 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. A Buffer Area shall not be occupied by any building, parking, outdoor storage or any use other than open space and approved vegetative plantings.

BUILDING:

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

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

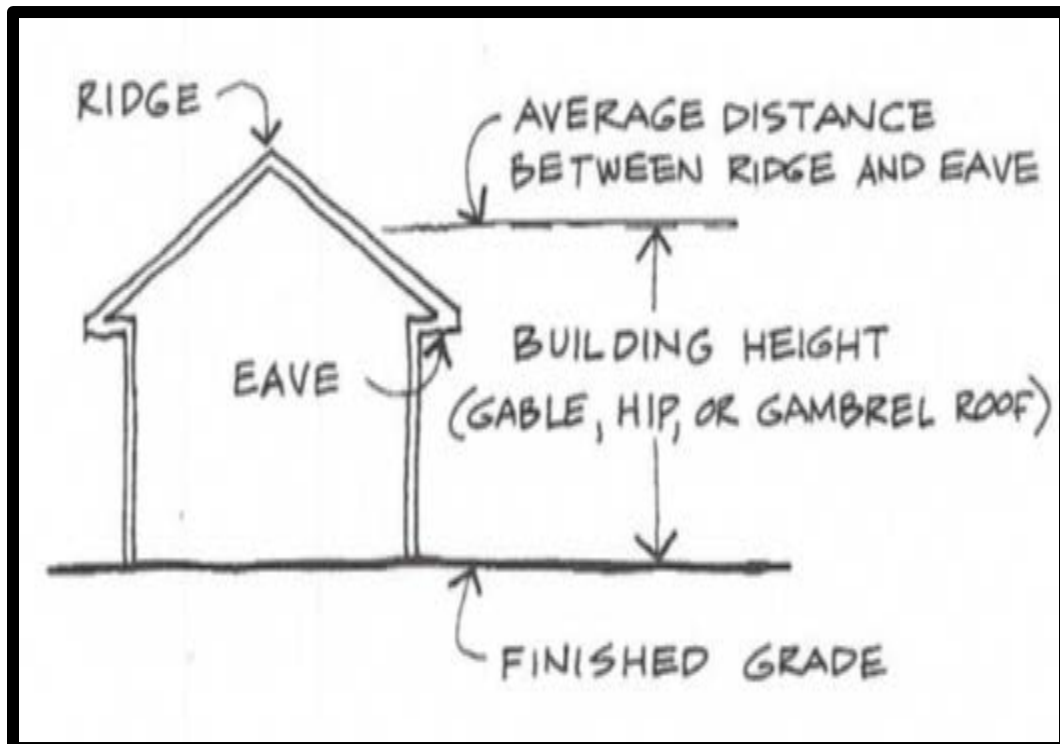
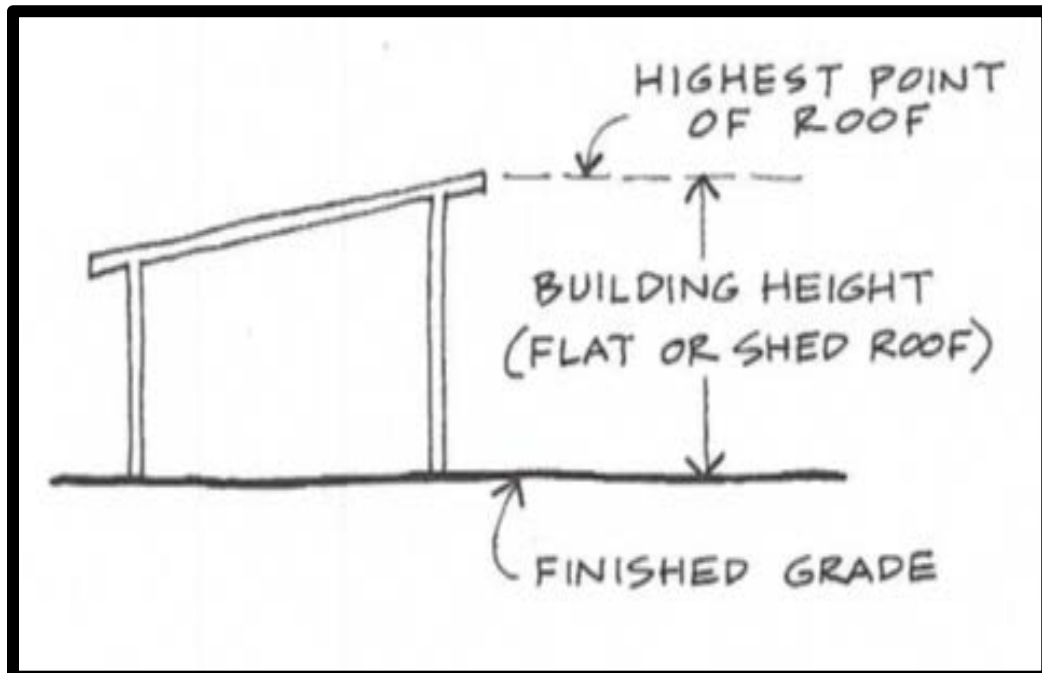
Building Coverage: The horizontal area measured within the outside of the exterior walls of the ground floor of all principal and accessory buildings on a lot.

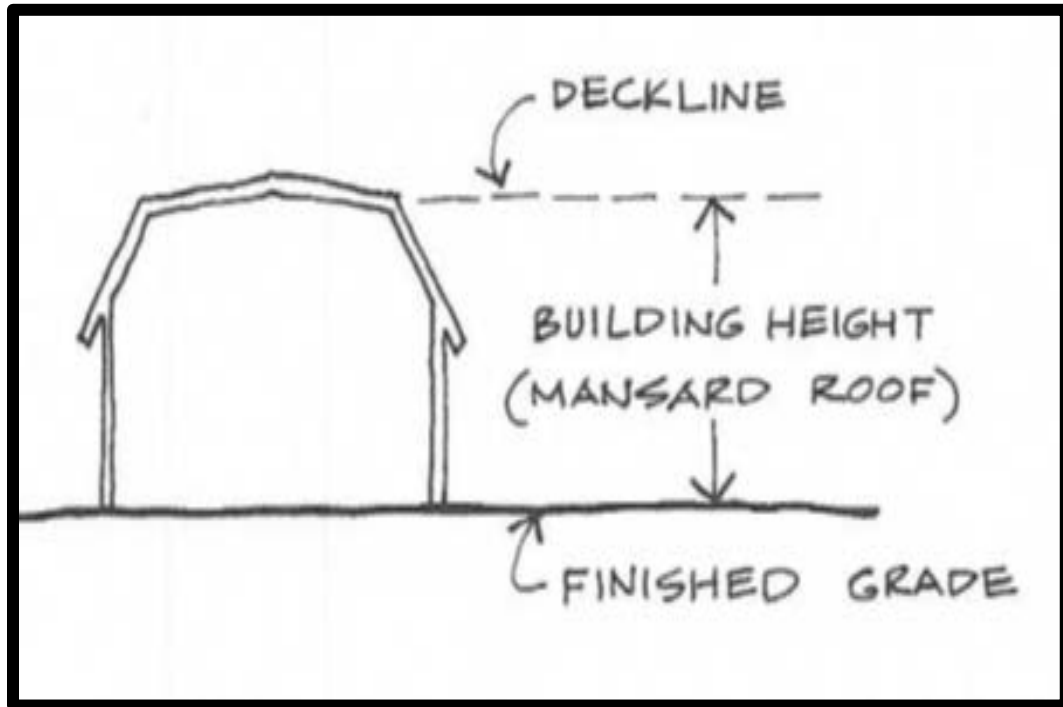
Building Envelope: An area of a lot upon which development may occur. Excluding deed restrictions, covenants, easements or other site conditions, the governing minimum setbacks requirements for a given zoning district establishes the building envelope.

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

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

EXAMPLES



**CAR WASH:**

An area of land and/or a structure with machine-or-hand-operated facilities used principally for the interior and/or exterior cleaning, washing, polishing, or waxing of motor vehicles.

CAMPGROUND:

A campground with two or more camping unit sites, accessible by vehicular traffic where sites are substantially developed with the provision of tables, refuse containers, flush toilets, bathing facilities, and water.

CAMPING UNIT:

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

CAMPSITE:

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

CARPORT:

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

CELLAR:

A space with less than one-half of its floor-to-ceiling height above the average finished grade of the adjoining ground or with a floor-to-ceiling height of less than 6 ½ feet.

CEMETERY:

Land used or intended to be used for the burial of the dead and dedicated for cemetery

purposes, including chapels, crematories, mausoleums, and mortuaries when operated in conjunction with and within the boundaries of such cemetery.

CERTIFICATE OF ZONING COMPLIANCE:

A statement, form or similar written documentation signed by the zoning officer, setting forth that a building, structure, or use upon inspection of the property complies with the zoning ordinance and the same may be used for the purposes stated on the approved zoning permit application. Said certificate shall not be construed in any manner to certify or warranty the safety as related to the construction of a building, structure, or use.

CHANGE OF USE:

Any use which differs from the last previously approved use of a building, structure or land.

CHURCH: (SEE PLACE OF WORSHIP)

COMMERCIAL COMMUNICATION ANTENNA:

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

COMMERCIAL COMMUNICATIONS EQUIPMENT BUILDING:

An unmanned building or cabinet containing communication equipment for the operation of a Commercial Communication Antenna.

COMMERCIAL COMMUNICATIONS FACILITY

The components normally associated with the use and operation of a Commercial Communication Antenna including a Commercial Communication Tower and Commercial Communications Equipment Building.

COMMERCIAL COMMUNICATION TOWER

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

COMMERCIAL COMMUNICATIONS TOWER; HEIGHT:

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

CONDOMINIUM:

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

CONTINUING CARE FACILITY:

An age-restricted residential facility as defined in current state licensing requirements, designed, operated and maintained to provide a continuum of accommodations and care for retired adults that may include:

- Independent Dwelling Units
- Skilled Nursing Facilities
- Intermediate Care Facilities
- Personal Care Facilities

A Continuing Care Facility may also include supporting services and facilities that encompass dining, recreational and social activities limited to residents within said facility.

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, but excluding any type of automotive repairs.

COUNTRY CLUB:

A facility organized and operated primarily for social and outdoor recreation purposes, which may also include dining facilities, and providing one or more of the following recreational and social activities: golf, swimming, riding, outdoor recreation, club house, locker room, and pro shop.

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.

CULTURAL CENTER:

A facility providing for display, performance, or enjoyment of heritage, history, or the arts. This use includes but is not limited to: museums, arts performance venues, cultural centers, or interpretive sites, but does not include commercially-operated theatres.

DAY CARE FACILITIES:

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

- A. Adult Day Care Center: A facility licensed by the state providing care for the elderly and/or functionally impaired adults in a protective setting for a portion of a 24-hour day.
- B. Child Day Care Center: A premises in which child day care is provided simultaneously for seven (7) or more children who are not relatives of the provider of the child day care home, where such facility is subject to PA Department of PA Department of Public Welfare supervision or licensing under the PA Public Welfare Code.

- C. Family Day Care Home: A premise in which child day care is provided at any one time to between four (4) to six (6) children who are not relatives of the provider of the child day care, where such facility is required to be registered with the PA Department of Public Welfare under the PA Public Welfare Code.
- D. Group Day Care Home: A State licensed facility in which care is provided for more than 6 but less than 12 children, at any one time, if care is provided in a facility where the child care areas are being used as a family residence.

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.

DETENTION FACILITY:

A publicly or quasi- publicly operated facility used to house and/or rehabilitate individuals detained, sentenced by, or under the jurisdiction of the criminal justice system, including but not limited to, jails, prisons, penitentiaries, reformatories, half-way houses and similar facilities.

DOG KENNEL:

An establishment licensed Pennsylvania Department of Agriculture where dogs are kept, housed, boarded, bred and/or trained for commercial gain.

DRIVE-IN COMMERCIAL USE:

An establishment that, by design of physical facilities or by service or packaging procedures, encourages or permit customers to receive a service or obtain a product that may be used or consumed in a motor vehicle on the premises or to be entertained while remaining in an automobile.

DRIVEWAY:

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

DRUG TREATMENT CENTER:

Facilities for the treatment of persons who abuse or are addicted to the use of legal or illegal controlled substances, such as a methadone clinic, where such treatment is designed to cure persons of such addictions, but not including overnight stays.

DWELLING:

One or more rooms, designed, occupied or intended for occupancy as separated living quarters, with cooking, sleeping and sanitary facilities provided within the dwelling unit for the exclusive use of a single family maintaining a household.

- A. DWELLING, SINGLE-FAMILY: A detached building arranged or used for occupancy by one (1) family. A manufactured housing unit which is attached and anchored to a permanent foundation shall be deemed to be a single family dwelling unit.
- B. DWELLING, TWO FAMILY: A detached or semidetached building where not more than two (2) individual family or dwelling units are entirely separated by vertical walls or horizontal floors, unpierced except by access to the outside or to a common cellar.
- C. DWELLING, MULTIPLE: A building containing three or more dwelling units entirely separated by vertical walls or horizontal floors, unpierced except by access to the outside or to a common cellar. The term "Townhouse" is excluded under this term (See Definition of Townhouse)
- D. TOWNHOUSE: A residential structure constructed as a single entity containing a row of more than two (2) single-family attached dwelling units but not more than six (6) single-family attached dwelling units, whereby each unit may be sold as an individual single-family attached unit, with each unit having a lot under individual or association ownership. Each unit shall have its own front and rear access to the outside and may have a common or public open space, such as an off-street parking area, yard area, recreational area, or similar common area. No dwelling units shall be located over another unit and each unit shall be separated from another unit by one (1) or more party walls without openings.
- E. MANUFACTURED HOME: A manufactured home (formerly known as a mobile home) is built to the Manufactured Home Construction and Safety Standards (HUD Code) and displays a red certification label on the exterior of each transportable section. Manufactured homes are built in the controlled environment of a manufacturing plant and are transported in one or more sections 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.

DWELLING UNIT:

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

EARTH DISTURBANCE ACTIVITY:

Any construction or other activity which disturbs the surface of the land including but not limited to excavations, embankments, land development, subdivision development, mineral extraction and the moving, depositing or storing of soil, rock or earth. Any construction or activity resulting in an earth disturbance shall be subject to the governing regulations of the Foster Township Storm Water Management Ordinance.

EASEMENT:

A legally recorded 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.

EMERGENCY SERVICES FACILITY:

A publicly owned building for the housing of fire, emergency medical or police equipment and for related activities.

ENTERTAINMENT FACILITIES:

Commercial establishments engaged in providing indoor entertainment for a fee or an admission charge, including but not necessarily limited to a movie theater, live theater performances, an arcade, bowling alley, billiard hall, roller skating rink or similar facilities.

ENVIRONMENTAL IMPACT STATEMENT

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

EXCAVATION:

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.

FACILITY:

A structure or place which is built, installed, or established to serve a particular purpose.

FAMILY:

Any number of individuals related by blood, marriage or legal adoption, including foster children, occupying a dwelling unit as their domicile as a single nonprofit housekeeping unit. A family shall also be deemed to include not more than 4 unrelated persons occupying a dwelling unit as their domicile and living as a single, nonprofit housekeeping unit. Such unrelated individuals shall have the right to occupy a dwelling unit in the same manner and to the same extent as any family unit as defined in the first sentence of this definition.

A family does not include a group living in a boarding house or hotel, or fraternities, sororities, and clubs, or other forms of congregate living arrangements, except as otherwise provided herein.

FENCE:

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

FLEA MARKET:

An occasional or periodic market held in an enclosed structure where groups of individual sellers offer goods for sale to the public.

FLOOD PLAIN MANAGEMENT ORDINANCE

The governing Flood Plain Management Ordinance for Foster Township

FLOOR AREA, GROSS RESIDENTIAL:

The interior floor area of a dwelling, including stairways, halls, and closets but not including basements, porches, garages, breezeways, or carports.

FLOOR AREA, GROSS NONRESIDENTIAL:

Unless specified otherwise, it represent the sum of the gross horizontal areas of the several floors of a building measured from the exterior faces of the exterior walls or from the centerline of walls separating two buildings but not including: (1) attic or basement storage space; (2) mechanical utility equipment areas; (3) stairs.

FLOOD PLAIN MANAGEMENT ORDINANCE:

The governing Flood Plain Management Ordinance for Foster Township.

FOOD PROCESSING ESTABLISHMENT:

Manufacturing establishments producing or processing foods for human consumption and certain related products. Includes (1) bakery products, sugar and confectionery products (except facilities that produce goods only for on-site sales with no wider distribution); (2) dairy products processing; (3) fats and oils products; (4) fruit and vegetable canning, preserving, and related processing; (5) grain mill products and by-products; (6) meat, poultry, and seafood canning, curing, and by-product processing (not including facilities that also slaughter animals); and (7) miscellaneous food preparation from raw products, including catering services that are independent from food stores or restaurants.

FORESTRY:

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

FRONTAGE:

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

GARAGE, PRIVATE RESIDENTIAL:

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

GARDEN CENTER:

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

GAS STATION, LIMITED-SERVICE:

A facility limited to retail sales to the public of gasoline, motor oil, lubricants, motor fuels, travel aides, and minor automobile accessories. In addition, such a facility may provide minor vehicle servicing, minor repairs, and maintenance, excluding those services provided under the definition of "Automotive Repair Garage."

GENERAL NUISANCE:

- A. Any use operated or conducted in a manner which directly or indirectly endangers the public health safety and/or welfare, including but not limited to having a detrimental effect on adjoining properties or the use of properties in the general neighborhood.
- B. A property in a continuing state of disrepair that is not fit for human habitation and/or occupancy with the potential to attract vermin and/or deemed to be a fire hazard to adjoining properties.
- C. A property that contains trash, junk and/or one or more junked vehicles.

GOVERNING BODY:

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

GRADE:

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

GRADING:

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

GRAVEL (CRUSHED STONE):

A surface that is considered to be impervious when the intended use of the stone is for transportation purposes, parking areas, construction areas, trails, or if the gravel is compacted at any time during or after its placement; landscaping stone is not considered as impervious area.

GREENHOUSE:

A building for the growing of flowers, plants, shrubs, trees and similar vegetation which are not necessarily transplanted outdoors on the same lot containing such greenhouse, but are sold directly from such lot at wholesale or retail.

GROUP HOME

A dwelling unit shared by more than 4 individuals, who are not related by blood, marriage or legal adoption occupying the premises as their domicile and living together as a single nonprofit housekeeping unit. The term "group home" shall not include:

- A. A boarding house and/or a personal care home
- B. A facility providing shelter and/or rehabilitative care or treatment of persons for alcoholism and/or addiction to a controlled substance
- C. A facility for persons released from or under the jurisdiction of a governmental bureau of corrections or similar institution, including, but not limited to a halfway house or other housing facilities serving as an alternative to incarceration.

HALFWAY HOUSE:

A State licensed house for inmates on release from more restrictive custodial confinement or initially placed in lieu of such more restrictive custodial confinement, wherein supervision, rehabilitation, and counseling are provided to mainstream residents back into society, enabling them to live independently.

HAZARDOUS SUBSTANCES:

Any material regulated by the Pennsylvania Department of Environmental Protection which requires the issuance of a permit by DEP that, by reason of its quantity, concentration, or physical, chemical or infectious characteristics may:

- A. Cause, or significantly contribute to, an increase in mortality or an increase in a serious irreversible or incapacitating illness.
- B. Pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed of or otherwise managed.
- C. This definition shall be deemed to include substances that are radioactive material, medical waste, explosives and blasting agents, compressed gases, flammable and combustible liquids, flammable solids, organic peroxides, oxidizers, pyrophoric materials, unstable (reactive) materials, water-reactive solids and liquids, cryogenic fluids, highly toxic and toxic materials, corrosives, carcinogens, irritants, sensitizers, and other hazardous substances. This term also includes the list of extremely hazardous substances set forth in 29 Code of Federal Regulations Part 355 or any successor provisions.

HIGHWAY OCCUPANCY PERMIT:

A permit, issued by the Pennsylvania Department of Transportation or any other level of government which authorizes access from a parcel of land onto a street or highway which is under its respective jurisdiction.

HEALTH SPA

An indoor facility where active exercise and related activities are performed utilizing weight control or muscle building equipment or apparatus for the purpose of physical fitness. Said facility may also include game courts, swimming facilities, saunas and massage rooms

HOOKAH:

A waterpipe, or a similar single or multi-stemmed instrument for vaporizing and smoking flavored tobacco products.

HOOKAH LOUNGE OR BAR:

An establishment where patrons smoke tobacco products from a hookah.

HOME OFFICE:

Residences of clergymen, architects, landscape architects, professional engineers, professional planners, registered land surveyors, lawyers, real estate agents, financial consultants, artists, teachers, musicians, or persons in other recognized professions used to conduct their professions where the office use is incidental to the residential use of the premises. The following uses and/or services, including those which are similar in nature, are excluded from the classification as a Home Office: hair stylists, barbers, massage parlors, tanning salons, health spas, beauty spas, nutrition and weight management services manicure and pedicure services, animal grooming services, body piercing and body painting services.

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.

HOTEL (SEE MOTEL):

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

HUB HEIGHT:

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

HUNTING OR FISHING CLUB:

Areas reserved for public or private hunting of wildlife, fishing, and accessory structures in support of those activities.

IMPACT ANALYSIS:

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

IMPERVIOUS SURFACE OR COVERAGE

A permanent surface that prevents the infiltration of water into the ground. Impervious surfaces include, but are not limited to, streets, sidewalks, pavements, parking lots, driveways, roofs, stone patios. See definition of "Gravel (Crushed Stone)" for when gravel classifies as impervious area.

IMPERVIOUS MATERIAL:

Any material and/or development that substantially reduces or prevents the infiltration of storm water into previously undeveloped land as further defined by the Foster Township Stormwater Management Ordinance.

IMPROVEMENTS:

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

INDUSTRY, HEAVY:

A use engaged in the basic processing and manufacturing of materials or products predominantly 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 and having potential to produce noise, dust, glare, odors or vibration beyond its property line.

INDUSTRY, LIGHT:

Uses engaged in the manufacture, predominantly from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, packaging, incidental storage, sales, or distribution of such products. Further, "light industrial" shall mean uses such as the manufacture of electronic instruments, preparation of food products, pharmaceutical manufacturing, research and scientific laboratories, or the like. Light industry must be capable of operation in such a manner to control the external effects of the manufacturing process, such as smoke, noise, soot, dirt, vibration, odor, etc. Light industry shall not include uses such as mining and extracting industries, petrochemical industries, rubber refining, primary metal and/or any form of basic industrial processing, including but not limited to the use of hazardous materials

INSTITUTIONAL USE:

A structure or facility which provides medical, health, educational, social and/or rehabilitate services to more than five (5) persons on a continuous and/or regular basis excluding overnight stays and, excluding a facility for persons released from or under the jurisdiction of a governmental bureau of corrections or similar institution.

INTERMEDIATE-CARE FACILITY:

A facility, as defined under current State licensing requirements, that provides nursing care and related medical or other personal health services to patients on a planned program of care and administrative management, supervised on a continuous twenty- four hour basis in an institutional setting.

JUNKED VEHICLE:

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

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

JUNKYARD: (SEE ALSO AUTOMOBILE WRECKING YARD):

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

LAND DISTURBANCE:

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

LANDOWNER:

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

LAUNDROMAT, SELF-SERVICE:

A business that provides home-type washing, drying, and/or ironing machines for hire to be used by customers on the premises.

LIBRARY:

A nonprofit facility open to the general public in which literary, musical, artistic, or reference materials such as but not limited to books, manuscripts, computers, recordings, or films are kept for use by or loaning to patrons of the facility, but are not normally offered for sale.

LOT:

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

LOT AREA:

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

LOT AREA, GROSS:

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

LOT, CORNER:

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

LOT COVERAGE:

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

LOT, FRONTAGE:

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

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 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.

MACHINE SHOP:

Any facility that uses machine tools, including but not limited to, lathes, milling machines, shapers, planers, hobbers, drill presses, and jig borers for working with metals or other relatively hard materials, such as some polymers. Typically machine shops make and repair all types of metal objects, from machine tools, dies, and molds to mass-produced parts such as screws, pistons, or gears.

MANUFACTURED HOME:

A manufactured home (formerly known as a mobile home) is built to the Manufactured Home Construction and Safety Standards (HUD Code) and displays a red certification label on the exterior of each transportable section. Manufactured homes are built in the controlled environment of a manufacturing plant and are transported in one or more sections on a permanent chassis. A manufactured housing unit which is attached and anchored to a permanent foundation shall be deemed to be a single family dwelling unit.

MANUFACTURED HOME PARK:

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

MANUFACTURED HOME SALES LOT:

An open lot, used for the outdoor display and/or sales of manufactured housing, that may also include recreation vehicles, or travel trailers.

MASSAGE ESTABLISHMENT:

An establishment or business operated by a medical practitioner, chiropractor or professional physical therapist licensed by the Commonwealth which provides the services of massage and body manipulation, including exercises, heat and light treatments of the body, and all forms and methods of physiotherapy.

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.

MEDICAL CLINIC/CENTER

A facility comprised of professional offices, for the examination and treatment of persons as outpatients by State-licensed physicians, dentists chiropractors or other licensed medical specialists, in which said medical practitioners may or may not work in cooperative association. Said clinics may provide medical services customarily available at hospitals, excluding overnight care of patients and 24 hour emergency service. Satellite hospital facilities which do not include facilities for the overnight stay of patients are also included in this use category. Such treatment may include day surgery, out-patient surgery, magnetic resonance imaging centers and similar uses, but, they may not include drug rehabilitation facilities or drug treatment centers other than for the medical treatment of persons requiring medical treatment for traumatic conditions resulting from abusing and/or overdosing on legal or illegal controlled substances. This use may involve the testing of tissue, blood or other human materials for medical or dental purposes.

METHADONE TREATMENT FACILITY:

A facility licensed by the Pennsylvania Department of Health to use the drug methadone in the treatment, maintenance or detoxification of persons.

MINERALS:

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

MINERAL EXTRACTION:

The removal from the surface or beneath the surface of land bulk mineral resources such as culm sand, gravel, topsoil, limestone, sandstone, coal, oil, gas, shale and iron ore using machinery. This use includes stockpiling, but not the movement of and replacement of topsoil as part of construction activities.

MIXED USE STRUCTURE:

A structure which contains two or more distinctly separate uses such as a commercial use and a residential use.

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 buildings is designed, intended, or used primarily for the accommodations of automobile travelers and provides automobile parking conveniently located on the premises.

MUNICIPALITY:

Foster Township, Luzerne County, Pennsylvania.

MUSEUM:

A building having public significance by reason of its architecture or former use or occupancy or a building serving as a repository for a collection of natural, scientific, historic or literary curiosities or objects of interest, or works of art, and arranged, intended, and designed to be used

by members of the public for viewing, with or without an admission charge, and which may include as an accessory use the sale of goods to the public as gifts or for their own use.

NO IMPACT HOME BASED BUSINESS:

A business or commercial activity administered or conducted as an accessory use which is clearly secondary to the use as a residential dwelling, and which involves no customer, client or patient traffic, whether vehicular or pedestrian, pick-up, delivery, or removal functions to or from the premises in excess with those normally associated with a residential use.

NIGHT CLUB:

A commercial establishment dispensing alcoholic beverages for consumption on the premises and in which dancing is permitted, including the term “cabaret”. This term does not include any adult use.

NONCONFORMING LOT:

A lot 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 extend 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.

NONPROFIT SOCIAL HALL AND CLUBS:

Buildings or facilities, normally owned and/or operated by a nonprofit or civic organization used by a recreational, civic, social, fraternal, religious, political or labor union association of persons for meetings and routine socializing and recreation that is limited to bona fide members and their occasional guests, and persons specifically invited to special celebrations, but which is not routinely open to members of the general public and which is not primarily operated as a for-profit business. The club shall involve a meaningful and substantial membership system, as opposed to a token system. Said Private Club shall not be operated in a manner in which it could also be classified as a Bottle Club, and/or a Sexual Oriented Business as so defined by this Ordinance.

OFF GRID SOLAR SYSTEM:

Means relying totally on an individual (standalone) system of solar panels, charge controller, batteries, and inverter to generate electricity.

OFFICES:

PROFESSIONAL OFFICE:

An office (other than a service office) for the practice of professions, such as the offices of physicians, dentists, attorneys-at-law, architects, veterinarians, engineers, artists, musicians, teachers, and others who, through training, are qualified to perform services of a professional nature.

SERVICE OFFICE:

An office in which are offered services by real estate agents, travel agents, insurance agents, accountants, public stenographers, brokers, or others who, through training, are duly qualified to perform services of an executive nature as distinguished from a professional office.

OUTDOOR STORAGE:

The placing, storing or keeping, in an unenclosed area, goods, materials, merchandise, equipment or vehicles which are related to the operation of a commercial use, excluding the storage of solid waste, hazardous substances, refuse, junk and junked vehicles.

OUTDOOR WOOD-FIRED BOILER:

A fuel-burning device designed: (1) to burn clean wood or other approved solid fuels; (2) by the manufacturer specifically for outdoor installation or installation in structures not normally intended for habitation by humans or domestic animals (e.g., garages); and (3) to heat building space and/or water via distribution, typically through pipes of a fluid heated in the device, typically water or a water/antifreeze mixture. Outdoor wood-fired boilers are also known as outdoor wood-fired furnaces, outdoor wood-burning appliances, or outdoor hydronic heaters, etc.

PARKING SPACE:

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

PASSIVE SOLAR ENERGY:

Energy used to convert sunlight into usable heat, cause air-movement for ventilation or cooling, or store heat for future use.

PATIO:

A level surfaced area directly adjacent to a principal building constructed above the existing grade which has an average elevation of not more than 30 inches, and without walls or a roof.

PATIO (COVERED) :

A roofed structure, which may be attached to the principal structure, open on three or more sides, excluding screening designed for outdoor recreational use. When attached to the principal structure is setback requirements applicable to the principal structure shall apply.

PERMITTED USE:

Any use which is specifically authorized in a particular zoning district.

PERSONAL-CARE HOME:

A facility, as defined under current State licensing requirements, in which food, shelter and personal assistance or supervision are provided for a period exceeding twenty-four

consecutive hours for more than three (3) adults who are not relatives of the operator of the facility and who require assistance or supervision in such matters as dressing, bathing, diet or medication prescribed for self-administration but who do not require hospitalization or care in a skilled nursing or intermediate care facility.

PERMANENT FOUNDATION:

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

PERSONAL SERVICES:

Any enterprise conducted for gain, which primarily offers services to the general public, such as shoe repair, valet service, watch repairing, hair stylists, barbers, tanning salons, beauty spas, manicure and pedicure services, animal grooming services and similar services.

PHOTOCOPY SERVICE:

A business that reproduces drawings, plans, maps, or other copy by means of blueprinting or photocopying.

PLACE OF WORSHIP:

A building or portion thereof used for religious services either on a permanent or periodic basis, including churches, synagogues, mosques and similar edifices.

PLANNING COMMISSION:

The Planning Commission of Foster Township.

PRINCIPAL USE:

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

PUBLIC:

Anything owned or operated by any department or branch of the federal government, state government, county government or municipal government.

PUBLIC BUILDING AND/OR FACILITY:

Any building and/or facility held, used or controlled exclusively for public purposes by any department or branch of government; federal, state, county, or municipal.

PUBLIC HEARING:

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

PUBLIC MEETING:

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 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 UTILITIES FACILITIES (ESSENTIAL):

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

PUBLIC UTILITY TRANSMISSION TOWER:

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

RECREATIONAL FACILITIES, COMMERCIAL:

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

RECREATIONAL FACILITIES, PRIVATE:

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

RECREATIONAL FACILITIES, PUBLIC:

Recreational facilities operated by a governmental entity and open to the general public.

RECYCLING COLLECTION CENTER :

A publically owned facility which is limited to the collection, separating and processing of used material prior to shipment to others who will use those materials to manufacture new products. Hazardous or toxic substances shall not be accepted, located and or stored at such a facility. This definition shall not include a junkyard.

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 nondisposable containers, and where the customer consumes these foods while seated at tables or counters located within the building.

RETAIL SALE ESTABLISHMENTS:

An establishment selling products as opposed to services or entertainment to the general public, such as antique shop; appliance store; artist, music, and automotive parts store; beverage

packaging store; building or plumbing supplies; crafts and hobby supplies; clothing store; dairy products store; dry goods and variety stores; florist; garden supplies; hardware store; newspapers, books and stationary products; office furniture, equipment and supplies; paintings and photography store; pet store; pharmacy; specialty gifts; sporting goods store; and other establishments selling related products

RIGHT-OF-WAY:

A defined and designated area for vehicular or pedestrian traffic, whether designated as a street, highway, thoroughfare, parkway, road, avenue, boulevard, lane, alley, which usually include cartways, shoulders, and sidewalks.

RIPARIAN LAND:

Land that is traversed or bounded by a natural watercourse. counters located within the building.

ROOMING HOUSE:

A structure 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 "Rooming House" shall specifically exclude the following:

Dwelling, Dwelling Unit, Dormitory, Hotel, Motel, Bed and Breakfast Facility, Group Residence.

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 and toilet facilities and/or cooking facilities for exclusive use by the 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. A satellite dish antenna that does not exceed three (3) feet in diameter and is attached to a building shall be exempt from securing zoning approval.

SCHOOL:

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

SCREENING:

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

SEATING CAPACITY:

The actual seating capacity of an area based upon the number of seats or one (1) seat per eighteen (18) inches of bench or pew length. For other areas where seats are not affixed, the seating capacity shall be determined by the applicable standards of the most recent Pennsylvania Uniform Construction Code.

SELF-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 for the storage of customers' goods or wares. The units shall be used solely for dead storage of non-hazardous materials and no processing, manufacturing, sales, research and development, service or repair, or other storage activities shall occur.

SETBACK:

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

SEXUALLY ORIENTED USES:

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

Sexually Oriented Entertainment: A nightclub, bar, tavern, 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 a "Sexually Oriented Use".

SHOPPING CENTER:

A grouping of retail business and service uses on a single site with common parking facilities.

SIGN:

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

SITE:

A plot or parcel of land or combination of contiguous lots or parcels of land.

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.

SKILLED NURSING FACILITY:

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

SOLAR ACCESS:

Means a building's ability to receive the benefits of the sun's rays without obstruction from neighboring buildings, structures, plants, and trees.

SOLAR ARRAY:

Means a ground mounted solar collection system consisting of a linked series of photovoltaic modules.

SOLAR COLLECTION SYSTEM:

A panel or other solar energy device, the primary purpose of which is to provide for the collection, inversion, storage and distribution of solar energy for electricity generation, space heating, space cooling or water heating.

SOLAR EASEMENT:

Means an easement of direct sunlight which may be acquired over the land of another by express grant or covenant.

SOLAR ENERGY:

Radiant energy (direct, diffuse, and reflected) received from the sun.

SOLAR ENERGY DEVICE: (active and passive)

The equipment and requisite hardware that provide and are used for collecting, transferring, converting, storing, or using incident solar energy for water heating, space heating, cooling, generating electricity, or other applications that would otherwise require the use of conventional source of energy such as petroleum products, natural gas, manufactured gas, or electricity produced from a nonrenewable resource.

SOLAR ENERGY SYSTEM:

Any solar collector or other solar energy device or any structural design feature whose primary purpose is to provide for the collection, storage and distribution of solar energy for space heating or cooling, for water heating or for electricity that may be mounted on a building or on the ground and is not the primary use of the property.

SOLAR ENERGY SYSTEM (MAJOR):

A commercially operated solar energy system that is principally used to convert solar radiation to electricity to supply electricity to off-site customer(s,) including but not limited to a Solar Farm.

SOLAR ENERGY SYSTEM (MINOR):

A system for the production of electrical energy that (a) uses as its fuel solar power (b) is located on the power beneficiary's premises (c) is intended primarily to offset part or all of the beneficiary's requirements for electricity and (d) is secondary and accessory to the beneficiary's use of the premises for other lawful purpose(s).

SOLAR FARM OR FARMS:

A commercially operated facility or area of land principally used to convert solar radiation to electricity to supply electricity to off-site customer(s).

SOLAR RADIATION (SOLAR ENERGY):

Means electromagnetic radiation emitted by the sun.

SOLAR SITE ORIENTATION

Means situating a building to optimize exposure to the winter sun for passive heating and lighting, while reducing this exposure to the summer sun to minimize overheating.

SOLAR WATER HEATING

Means using the sun directly to heat water in homes and swimming pools.

SOIL EROSION AND SEDIMENTATION CONTROL PLAN:

A plan that indicates necessary land treatment designed to effectively minimize soil erosion and sedimentation measures requiring approval by the Luzerne County Conservation District.

SOLID WASTE OR WASTE:

Any garbage, refuse 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, as so defined by this Ordinance.

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

Zoning Ordinance.

SIGN:

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

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.

STANDALONE NONCOMMERICAL WINDMILL

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

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 feet of the finished ground surface adjoining the exterior walls of such story.

STORMWATER MANAGEMENT ORDINANCE:

The governing Stormwater Management Ordinance for Foster Township.

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, having an ascertainable stationary location on or in land or water, whether or not it is affixed to the land.

SUBDIVISION:

The division or redivision of a lot, tract or parcel of land by any means into two (2) or more lots, tracts, parcels or other divisions of land including changes in existing lot for the purpose, whether immediate or future, of lease, partition by the court for distribution to heirs or devise, transfer of ownership or building or lot development, provided, however, that the subdivision by lease of land for agricultural purposes into parcels of more than ten acres, not involving any new street or easement of access or any residential dwelling, shall be exempted.

SUBDIVISION AND LAND DEVELOPMENT ORDINANCE:

The official and most recent version of the Foster Township Subdivision and Land Development Ordinance, as amended.

SWIMMING POOL, PRIVATE NONCOMMERCIAL:

A water-filled enclosure, having a depth of twenty-four (24) inches or greater, permanently constructed or portable, designed to be used or intended to be used for swimming purposes by any family or persons residing on the premises or their guests. The use shall not be operated for financial gain and the use shall be considered an accessory use to the dwelling on the lot thereon.

TATTOO PARLOR/BODY-PIERCING STUDIO:

An establishment whose principal business activity is the practice of one or more of the following:

- (1) placing of designs, letters, figures, symbols, or other marks upon or under the skin of any person, using ink or other substances that result in the permanent coloration of the skin by means of the use of needles or other instruments designed to contact or puncture the skin;
- (2) creation of an opening in the body of a person for the purpose of inserting jewelry or other decoration.

TAVERN

A place where alcoholic beverages are served as a primary or substantial portion of the total trade, which may or may not include the sale of food and/or live entertainment.

TRACTOR-TRAILER:

A transport vehicle consisting of a semi-tractor and attached trailer.

**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 of delivery of freight shipped by truck.

TRUCK REPAIR & STORAGE:

A building and/or land used primarily for the maintenance and storage of large commercial vehicles.

TURBINE HEIGHT:

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

USE:

Any purpose for which a lot, building, or other structure or a tract of land may be designated, arranged, intended, maintained, or occupied; or any activity, occupation, business, or operation carried on or intended to be carried on in a building or other structure or on a tract of land.

VARIANCE:

A waiver granted by the Zoning Hearing Board from the terms and requirements of this Ordinance in accordance with Section 1409 of this Ordinance.

WAREHOUSE:

A building used primarily for storage of goods, and materials.

WAREHOUSING AND DISTRIBUTION:

A use engaged in storage, wholesale and distribution of manufactured products, supplies and equipment, excluding the bulk storage of materials that are inflammable, explosive, hazardous, or commonly recognized as offensive. This term does not include trucking facilities.

WATERCOURSE:

A permanent or intermittent stream, river, brook, creek, or channel or ditch for collection and conveyance of water, whether natural or man-made.

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. Any area meeting the official wetland definition of the U.S. Army Corps of Engineers or the Pennsylvania Department of Environmental Protection, as amended, shall be considered a wetland for the purposes of this Ordinance. In the event the definition of wetland accepted by the U.S. Army Corps of Engineers conflicts with the definition of a wetland accepted by the Pennsylvania Department of Environmental Protection, the more restrictive definition shall apply.

WELDING SHOP:

The use of land, or building, or structure where pieces of metal are welded.

WIND ENERGY CONVERSION SYSTEM ("WECS"):

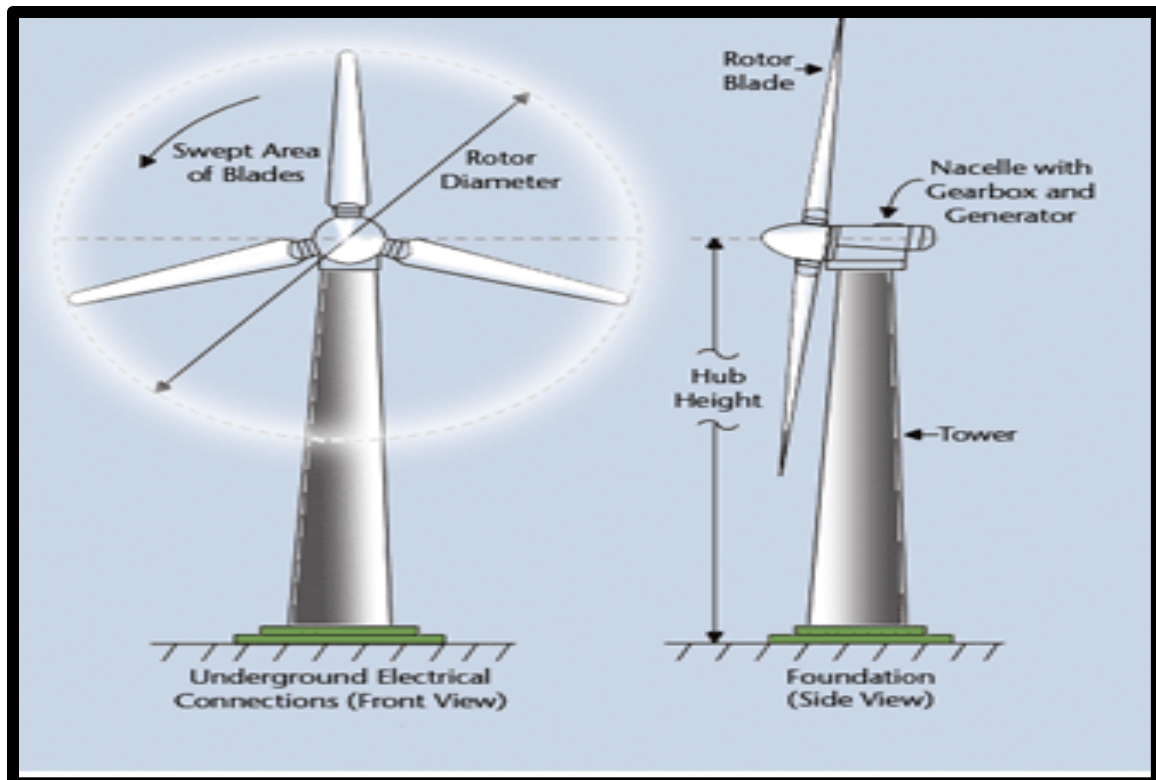
A machine designed for the purpose of converting wind energy into electrical energy. (Commonly known as "wind turbine" or "windmill"). The term WECS shall be used interchangeably with the terms "wind turbine" or "windmill," with said terms having the same meaning as a WIND ENERGY CONVERSION SYSTEM ("WECS")

WIND ENERGY FACILITY:

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

WIND TURBINE:

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

WIND TURBINE DIAGRAM**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:

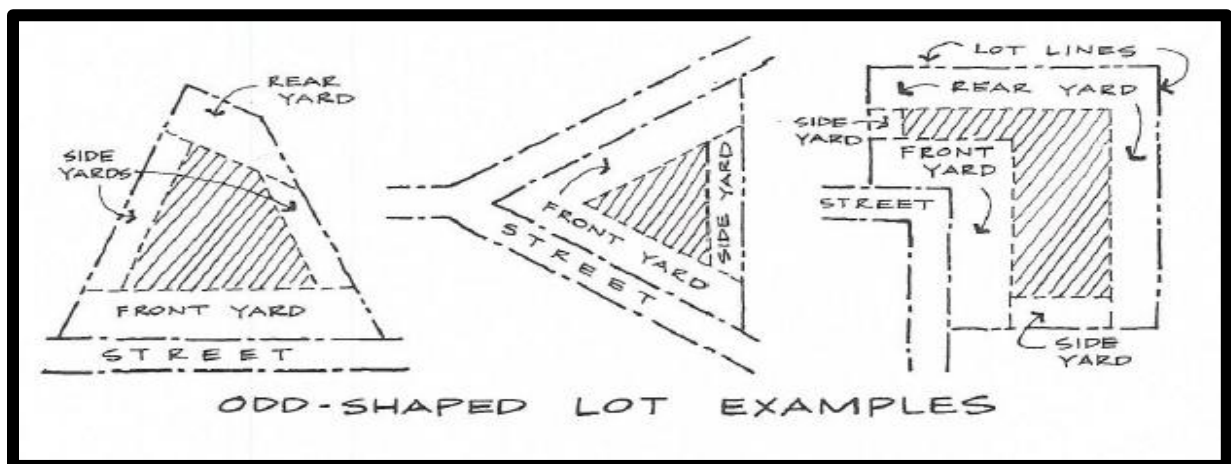
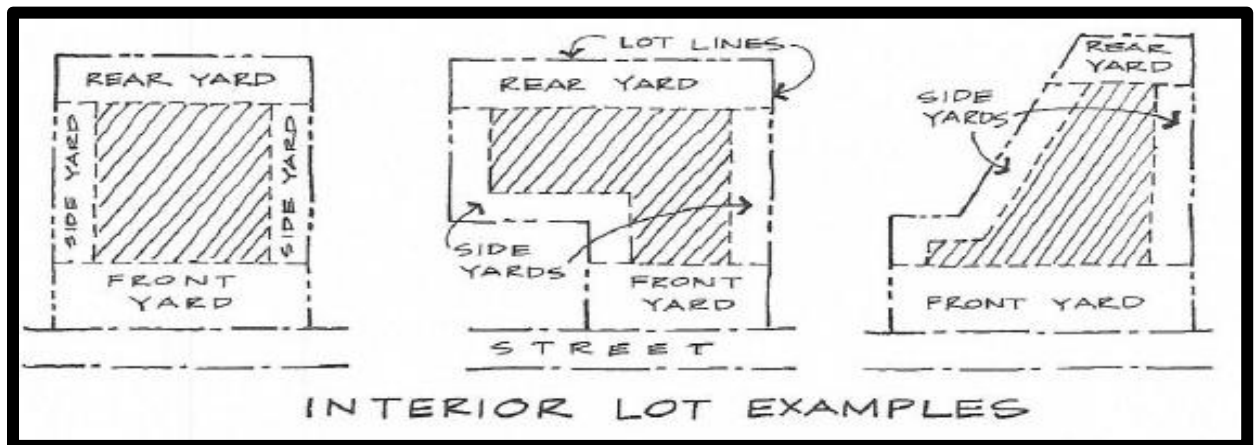
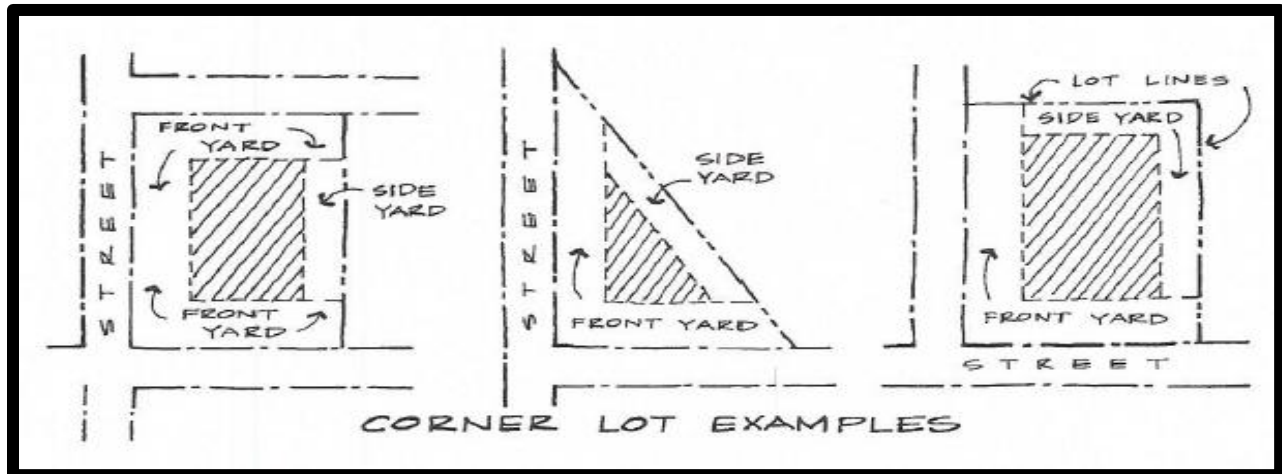
A space extending from the front yard to the rear yard between the principal building and the side lot line measured perpendicular from the side lot line to the closest point of the principal building.

YARD, REQUIRED:

The minimum open space between a lot line the yard line within which no structure is permitted

to be located except as otherwise provided for in this Zoning Ordinance.

THE FOLLOWING ILLUSTRATIONS PROVIDE YARD AREAS FOR A VARIETY OF LOTS WITH DIFFERNT CONFIGURATIONS.



ZONING DISTRICT:

A portion of Foster Township as 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..

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 the Township. In the event of any conflict in the application of this Ordinance with other applicable public or private provisions, the following shall apply:

302.1 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 the 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 the Township, the provisions of this Ordinance shall apply.

302.2 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 LIMITATION OF LAND USE

Except as provided in this Ordinance, no building or structure or part thereof shall be erected, altered, added to or enlarged, nor shall any land, building, structures or premises be used, designed or intended to be used for any purpose other than the uses hereinafter listed as permitted in the Zoning District in which such building, structure or premises are located.

SECTION 304 REQUIRED AREA OR SPACE CANNOT BE REDUCED

The area or dimension of any lot, yard, parking area or other space shall not be reduced to less than the minimum required by this Ordinance; and if already less than the minimum required by this Ordinance, said nonconformity may be continued but shall not be further reduced.

SECTION 305 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 306 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 307 UNATTACHED ACCESSORY STRUCTURES

(1) Non-Residential. When the principal use or structure is nonresidential, an unattached accessory structure shall comply with the front yard setback and side 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 25 feet from any rear yard lot line.

(2) Residential. When the principal structure is residential, unattached accessory structures shall be erected in a side or rear yard only subject to the following requirements:

- A. The maximum height shall not exceed one and one-half (1.5) stories or fifteen (20') feet.
- 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. Excluding A-1 and C-1 zoning districts, an accessory residential structure shall not exceed 1,500 square feet of floor area.
- C. In no case shall the maximum square foot area of any accessory structure, excluding a swimming pool or a structure used agricultural purposes, exceed the square foot area of the footprint of the principal use.
- D. 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 all other applicable regulations contained within this Ordinance.
- E. An accessory structure shall not be located less than ten (10) feet from the principal structure.
- F. Accessory structures, including any related equipment, shall be installed and used in accordance with the manufacturer's written recommendations.

SECTION 308 TYPES OF RESIDENTIAL ACCESSORY STRUCTURES:

For residential lots, permitted accessory structures shall include but not be limited to noncommercial greenhouses, tool or lawn sheds, private garages or carports, private noncommercial swimming pools, gazebos, noncommercial satellite antenna dishes, solar panels, standalone noncommercial windmill, outdoor wood burning furnaces and other similar accessory uses.

SECTION 309 RESIDENTIAL UNITS FOR CARE OF RELATIVES

The use of a separate residential dwelling unit within or attached to a single-family dwelling unit may not be considered a second principal use, but shall constitute a permitted accessory use provided that all of the following criteria are met:

- (1) Not more than two persons may occupy the separate accessory residential dwelling unit who must be relatives of the persons occupying the principal residential dwelling unit.
- (2) At least one of the residents of the separate accessory residential dwelling unit must need accommodations because of illness, infirmity, age or disability.
- (3) The separate accessory residential dwelling unit must be designed and constructed so that it may be reconverted into part of the principal residential dwelling unit within six months of the relatives no longer residing within the unit. This shall be a condition of any permit issued by the Zoning Officer.
- (4) The separate accessory residential dwelling unit shall be attached to the principal residential dwelling unit in such a way as not to detract from the residential characteristics of the neighborhood.
- (5) One additional off-street parking space shall be required for the separate accessory residential dwelling unit unless the applicant can prove to the satisfaction of the Zoning Officer that the residents of the separate accessory residential dwelling unit do not drive an automobile.

SECTION 310 PRIVATE NONCOMMERCIAL SWIMMING POOLS

A private noncommercial swimming pool capable of containing water to a depth of twenty-four (24) inches or greater shall be permitted as an accessory use in any zone subject to the following:

310.1 Yard Area and Setback Requirements

A private swimming pool shall be located in either a side yard or rear yard with a minimum side yard and rear yard setback of ten (10) feet as measured from the water's edge.

310.2 In-Ground Pools

The pool or the entire property on which the pool is located, shall be enclosed with a permanent fence not less than four (4) feet in height, which includes a gate secured with a lock. Required fencing shall also comply with regulations under §403.26 of the most current version of the UCC. The required fencing for an in ground pool must be installed upon the completion of the excavation work for said pool.

310.3 Above Ground Pools

A. Pools With Exterior Supports

An above ground pool which is manufactured, designed and erected with supporting devices around and/or within the outer wall or edge of a pool shall be enclosed with a permanent fence not less than four (4) feet in height which includes a gate secured with a lock in accordance with the above requirements of Section 309.2 or in lieu of a fence, a barrier not less than four (4) feet in height. Said barrier may include the pool wall and any extension thereto which equals or exceeds a height of four (4) feet. Access into a pool which includes a deck shall be secured by a gate with a lock. Pools without access from a deck, shall include retractable steps or any similar device which prohibits uncontrolled access into the pool when not in use. Shrubbery is not to be considered as a barrier. Decks which are attached to the pool shall require a side yard and/or rear yard setback of not less than five (5) feet.

B. Inflatable Pools without Exterior Supports

An above ground pool which may be inflated and used without supporting devices around and/or within the outer wall or edge of a pool shall be enclosed with a permanent fence not less than four (4) feet in height which includes a gate secured with a lock in accordance with the above requirements of Section 309.2

SECTION 311 PROJECTIONS INTO REQUIRED YARDS

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

- A. Terraces or Patios: provided that such terraces or patios are located in the rear yard or sideyard, are not under roof, without walls or other form of enclosure and are not closer than five (5) feet to any adjacent lot line.
- B. Projecting Architectural Features: such as bay windows, cornices, eaves, fireplaces, chimneys, window sills, stairways, balconies, canopies or other similar architectural features provided that any of the aforementioned features do not extend more than three (3) feet into any required setback.
- C. Porches and Decks: provided such porches or decks are not under roof, are located in the rear yard or sideyard, and do not exceed four and one-half ($4\frac{1}{2}$) feet in depth and five (5) feet in length as extended from the principal structure.
- D. Lamp posts, walkways, sidewalks, driveways, retaining walls, fences, steps or landscaping.
- E. Handicapped Ramps: The installation of a handicapped ramp in any zone, designed to provide access to handicapped persons, shall be exempt from meeting any applicable front yard or rear yard setback requirements, but shall have a minimum side yard setback of not less than five (5) feet.
- F. No projections shall be permitted within and/or over a public right-of-way.

- G. Temporary construction trailers provided that they are used on the lot where construction is being conducted and only while construction is occurring.

SECTION 312 VISIBILITY AT INTERSECTIONS STREETS AND PRIVATE DRIVEWAYS

A clear-sight triangle shall be provided at all street and driveway intersections. Nothing shall be erected, placed or allowed to grow in a manner which obscures vision above the height of two and one-half feet and below 10 feet, measured from the centerline grade of intersecting streets and driveways.

- A. Street Intersections. For corner properties, at street intersections, an isosceles triangle shall be established for a distance of 20 feet at each side of the point of intersection of the street right-of-way lines with the property line.
- B. Driveway Intersections. At driveway intersections with streets, an isosceles triangle shall be established for a distance of 20 feet at each side of the point of intersection of the street right-of-way lines with the driveway.

SECTION 313 EXEMPTIONS FROM HEIGHT REQUIREMENTS:

Height limitations in this Ordinance as so specified for each Zoning District shall not apply to church spires, belfries, cupolas and domes, monuments, water towers, standalone noncommercial windmills, wind energy facilities, commercial communication towers, chimneys, smokestacks, flag poles, radio towers, masts and aerials, accessory mechanical appurtenances usually located above the roof level or to parapet walls extending not more than four (4) feet above the roof line of the principal building, but may be subject any supplemental height regulation associated with a specific use.

SECTION 314 EXEMPTION FOR ENCLOSURE OF EXISTING STRUCTURES

In all zoning districts, any area of a pre-existing nonconforming roofed structure may be enclosed without meeting the yard setback requirements for the zoning district in which the property is located.

SECTION 315 EXEMPTIONS UNDER PROPOSED SUBDIVISIONS

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

SECTION 316 SETBACK EXEMPTIONS FOR STRUCTURAL REPLACEMENTS

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

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

SECTION 317 EXEMPTION-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, if upon petition of the corporation, the Pennsylvania Public Utility Commission shall, after a public hearing, decide that the present or proposed situation of the building in question is reasonably necessary for the convenience or welfare of the public. It shall be the responsibility of the Pennsylvania Public Utility Commission to ensure that both the corporation and municipality in which the building or proposed building is located have notice of the hearing and are granted an opportunity to appear, present witnesses, cross-examine witnesses presented by other parties and otherwise exercise the rights of the party to the proceedings.

SECTION 318 LOTS DIVIDED BY ZONING BOUNDARIES

If a zoning district boundary line divides a lot, which does not exceed one acre in size and is held in single and separate ownership prior to the effective date of this Ordinance, placing ninety (90%) 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 ten (10%) percent or less of the lot so divided.

SECTION 319 LAND DEVELOPMENT APPROVAL REQUIRED:

In addition to zoning approval, the improvement of one or more contiguous lots, involving a group of two or more residential or nonresidential buildings, whether proposed initially or cumulatively, or a single nonresidential building on a lot or lots regardless of the number of occupants or tenants, in addition to the applicable provisions of this Ordinance, shall also be governed by the applicable provisions of the Foster Township Subdivision and Land Development Ordinance.

SECTION 320 FENCES AND WALLS

The posts and/or structural supports of a fence shall be located within the interior yard space to be enclosed. Height measurements for compliance with this Section shall be based upon the ground elevation directly below the fence.

320.1 RESIDENTIAL

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

A. FRONT YARD

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

B. SIDE AND REAR YARDS

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

C. MATERIALS

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

320.2 NONRESIDENTIAL

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

320.3 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 public outdoor recreational facility.

320.4 RETAINING WALLS

Any retaining wall which exceeds four (4) feet in height shall comply with all governing requirements of the Pennsylvania Uniform Construction Code. Zoning approval of any retaining wall shall be conditioned upon written approval of its proposed design and construction by the Building Code Inspector for Foster Township.

SECTION 321 MANUFACTURED HOMES ON PERMANENT FOUNDATIONS

A manufactured home, when constructed and anchored to a permanent foundation, as defined in Article 2 of this Ordinance, shall be deemed to be a single family residence.

SECTION 322 MANUFACTURED HOMES WITHOUT PERMANENT FOUNDATION

A. Replacement.

The removal of a manufactured home as a nonconforming use upon a property with the intent to replace it with another may be permitted without Zoning Hearing Board approval provided

that the new manufactured home is in conformity with all applicable setback, area, and bulk requirements for the zoning district in which it is located. In addition, the replacement of the manufactured home shall be done in accordance with the construction standards set forth in Section 322(B) below.

B. Construction Standards.

A manufactured home shall be set on a concrete frost-free footer with skirting made of brick, block or concrete wall, and any towing tongues, wheels and axles shall be removed from the mobile home and the home must be secured with a safety strap or cable to the concrete footer or steel cross support. The specifications of the footer and its depth shall be as proscribed under the applicable UCC building code.

SECTION 323 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. This provision shall apply to both accessory and principal structures.

SECTION 324 JUNK AND/OR JUNKED VEHICLES

Junk and/or junked vehicles as so defined in Article 2 of this Ordinance shall be prohibited to be located and/or stored upon any lot or property within the Township which has not secured proper zoning approval to operate a Junkyard or Automobile Wrecking Yard consistent with the definitions of said terms as so defined in Article 2 of this Ordinance.

SECTION 325 PROHIBITION OF GENERAL NUISANCES

The use, operation and/or condition of any property found to be a “GENERAL NUISANCE” as so defined in Article 2 of this Ordinance shall constitute a violation of this Ordinance and shall be subject to the violation procedures and penalties as set forth in Section 1306 (Enforcement Procedures) of this Ordinance.

SECTION 326 NON-COMMERCIAL SATELLITE DISHES AND STANDARD ANTENNAS

A freestanding non-commercial satellite dish or standard antenna including amateur television and radio antennas shall be deemed to be an accessory structure permitted only as a special exception use in all zoning districts, thereby requiring approval from the Zoning Hearing Board and subject to the supplemental standards as set forth in Section 801.40 and Section 1510.2 of this Ordinance.

A roof mounted non-commercial satellite dish or standard antenna shall be permitted by right in all zoning districts, subject to not exceeding the maximum height requirement for the District in which it is located.

SECTION 327 OUTDOOR WOOD-FIRED BOILER

An Outdoor Wood-Fired Boiler, as defined in Article 2, shall be deemed to be an accessory residential structure subject to the supplemental standards as set forth in Section 801.35.

SECTION 328 STANDALONE NONCOMMERCIAL WINDMILL

A freestanding Standalone Noncommercial Windmill, shall be deemed to be an accessory

structure permitted only as a special exception use in all zoning districts, thereby requiring approval from the Zoning Hearing Board and subject to the supplemental standards as set forth in Section 801.47 and Section 1510.2 of this Ordinance.

A roof mounted Noncommercial Windmill shall be permitted by right in all zoning districts, subject to not exceeding the maximum height requirement for the District in which it is located.

SECTION 329 MINOR SOLAR ENERGY SYSTEM

A free standing Minor Solar Energy System shall be deemed to be an accessory structure permitted as a special exception use in all zoning districts, thereby requiring approval from the Zoning Hearing Board and subject to the supplemental standards as set forth in Section 801.43 and Section 1510.2 of this Ordinance.

A roof mounted Minor Solar Energy System shall be permitted by right in all zoning districts, subject to not exceeding the maximum height requirement for the District in which it is located.

SECTION 330 RECREATIONAL VEHICLES, TRACTOR TRAILERS, AND TRAILER STORAGE.

Any recreational vehicle which is not licensed, registered and inspected shall not be permitted on any lot except where permitted by the regulations concerning Junk Yards, Automobile Wrecking Yards and the lot employs such use. If stored on property in which the permitted use is residential, the licensed, registered and inspected recreational vehicle shall be stored in a structure or within the rear yard. Tractor trailers shall not be stored in a residential zone except when making a delivery and trailer storage of any type shall not be permitted in a residential zone.

SECTION 331 SEWAGE DISPOSAL

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

SECTION 332 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 governmental entity having jurisdiction over the same.

SECTION 333 STORMWATER MANAGEMENT

Any proposed development or use of property which results and/or requires a land disturbance shall be undertaken in compliance with the applicable regulations of the

governing Foster Township Stormwater Management Ordinance.

SECTION 334 BUFFERS FROM WETLANDS, STREAMS, AND WATERWAYS

All accessory and principal structures shall be setback not less than 25 feet from any wetlands, and 50 feet from streams, waterways and water bodies.

SECTION 335 OUTDOOR LIGHTING

All outdoor lighting on private or public residential, commercial, industrial, recreational or institutional property shall be directed, located, designed, fitted and maintained so as not to present a hazard to drivers or pedestrians by impairing their ability to safely traverse (disabling glare), and so as not to create a nuisance by projecting or reflecting objectionable light onto a neighboring use or property (nuisance glare).

SECTION 336 COMPOSTING

The composting of biodegradable vegetative material such as trees, shrubs, leaves and vegetable waste, which do not contain garbage or animal fats shall be permitted as an accessory use in all zoning districts provided that:

- (1) The composting is conducted in such a manner as not to create any health, welfare or safety concerns.
- (2) Any composting of manure shall be restricted to lots where:
 - A. Agriculture is a use permitted by right.
 - B. The lot size is a minimum of 10 acres.
 - C. The setback from any adjoining street or property line is at least 500 feet.
 - D. The composting shall comply with the published manure management standards of the Pennsylvania State University Cooperative Extension Service.

SECTION 337 USES NOT LISTED OR ADDRESSED WITHIN ORDINANCE

A use not listed in any of the zoning districts shall be referred to the Zoning Hearing Board as a special exception application and may be permitted by the Zoning Hearing Board provided that the applicant proves:

- (1) The proposed use is less intensive than other principal permitted uses within the zoning district.
- (2) The proposed use is similar and compatible to other principal permitted uses within the zoning district.
- (3) The proposed use is not listed in this or any other zoning district and is not similar to a use listed in any of those zoning districts.

- (4) The proposed use does not interfere or conflict with the general purposes, community development objectives or intent for which this Ordinance has been adopted.
- (5) The proposed use meets the standards for a special exception use under Article 15, Section 1510 of this Ordinance.

SECTION 337 SUPPLEMENTAL REQUIREMENTS

A use, provided for under any Zoning District within this Ordinance, shall, in addition to all other applicable provisions of this Ordinance, shall also be governed by supplemental regulations applicable to such use contained within Article 8 (Supplemental Regulations) of this Ordinance.

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 provisions 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 governing body.

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 |
| A-1 | AGRICULTURAL DISTRICT |
| C-1 | CONSERVATION DISTRICT |
| S-1 | SPECIAL PURPOSE INSTITUTIONAL DISTRICT |
| B-2 | COMMUNITY BUSINESS DISTRICT |
| B-3 | HIGHWAY COMMERICAL DISTRICT |
| I-1 | GENERAL INDUSTRIAL DISTRICT |
| I-2 | HEAVY INDUSTRIAL DISTRICT |
| AEO | RENEWABLE ENERGY OVERLAY DISTRICT |
| PRD | PLANNED RESIDENTIAL DISTRICT |

ARTICLE 5 ZONING DISTRICT REGULATIONS

SECTION 501 PERMITTED USES, CONDITIONAL USES, SPECIAL EXCEPTION USES AND NON-PERMITTED USES.

- (1) Permitted Uses. The letter “P” designated under any of the zoning districts in the Use Table of this Ordinance indicates a permitted use in that district, which use is permitted by right within that zoning district, thereby not requiring the Board of Supervisors or the Zoning Hearing Board approval, but only a determination of compliance and approval by the Zoning Officer.
- (2) Conditional Uses. The letters “C” designated under any of the zoning districts in the Use Table of this Ordinance indicates a conditional use in that district, which use requires the Board of Supervisors approval. The Board of Supervisors may either approve or deny a conditional use in accordance with the provisions of this Ordinance. The Zoning Officer has no discretion to approve any permit where the use is classified as requiring a conditional use approval.
- (3) Special Exception Uses. The letters “SE” designated under any of the zoning districts in the Use Table of this Ordinance indicates a special exception use in that district, which use requires Zoning Hearing Board approval. The Zoning Hearing Board may either approve or deny a special exception use in accordance with the provisions of this Ordinance. The Zoning Officer has no discretion to approve any permit where the use is classified as requiring special exception approval.
- (4) Non-Permitted Uses. The letter “N” designated under any of the zoning districts in the Use Table of this Ordinance indicates a use not permitted in that district, thereby requiring a use variance to be approved or denied by the Zoning Hearing Board in accordance with the provisions of this Ordinance.

SECTION 502

Symbol Key

P- Permitted Use

SE- Special Exception

C – Conditional Use

N- Non-Permitted Use

FOSTER TOWNSHIP RESIDENTIAL USE TABLE

| TYPES OF LAND USES | ZONING DISTRICTS | | | | | | |
|-------------------------------------|------------------|------|-----|-----|-----|-----|-----|
| | R-1 | R-1A | R-2 | A-1 | C-1 | S-1 | AEO |
| RESIDENTIAL USES¹ | | | | | | | |
| Single-Family Dwelling Units | P | P | P | P | P | P | N |
| Two-Family Dwelling Units | N | N | P | N | N | P | N |
| Multi Family Dwelling Units | N | N | SE | N | N | P | N |
| Townhouses | SE | N | SE | N | N | N | N |

| RESIDENTIAL USES¹ | R-1 | R-1A | R-2 | A-1 | C-1 | S-1 | AEO |
|---|------------|-------------|------------|------------|------------|------------|------------|
| Condominium (form of ownership of dwelling unit) | N | N | SE | N | N | N | N |
| Manufactured Home | N | N | N | P | P | N | N |
| Manufactured Home (anchored to permanent foundation) | P | P | P | P | N | N | N |
| Manufactured Home Park | N | N | N | C | N | N | N |
| Boarding House/Rooming House | N | N | SE | N | N | N | N |
| Bed and Breakfast | N | N | N | SE | SE | N | N |
| Personal-Care Home | N | N | SE | N | N | N | N |
| No Impact Home Based Business | P | P | P | P | P | P | N |
| Home Office | P | P | P | P | P | P | N |
| Home Occupation | SE | SE | SE | SE | SE | SE | N |
| Group Homes | N | N | SE | N | N | N | N |
| Half-Way House | N | N | N | N | N | C | N |
| Dwellings Permitted on Upper Floors of Commercial Uses | N | N | SE | N | N | N | N |
| Forestry | P | P | P | P | P | P | N |
| Accessory Residential Structures ¹ | P | P | P | P | P | P | N |
| MISCELLANEOUS ACCESSORY RESIDENTIAL USES¹ | R-1 | R-1A | R-2 | A-1 | C-1 | S-1 | AEO |
| Outdoor Wood-Fired Boilers | SE | SE | SE | P | P | SE | P |
| Standalone Noncommercial Windmill ² | SE | SE | SE | SE | SE | SE | SE |
| Minor Solar Energy System ² | SE | SE | SE | SE | SE | SE | N SE |
| Satellite Dish Antenna (Noncommercial) | P | P | P | P | P | P | N P |
| Nonprofit Social Hall And Clubs | N | N | P | SE | P | N | N |
| Recreational Facilities, Public | P | P | P | P | P | P | N |

¹ Uses may also be subject to supplemental regulations as contained in either Article 3 or Article 8 of this Ordinance.

² Roof-mounted units shall be permitted by right in all zoning districts subject to not exceeding the maximum height limitations in the zoning district in which they are located.

FOSTER TOWNSHIP NONRESIDENTIAL USE TABLE

ZONING DISTRICTS

| NONRESIDENTIAL USES¹ | B-2 | B-3 | A-1 | C-1 | 1-1 | I-2 | S-1 | AEO |
|--|------------|------------|------------|------------|------------|------------|------------|------------|
| Agri-Tourism | N | N | P | P | N | N | P | N |
| Agriculture Use | N | N | P | P | N | N | P | N |
| Animal Cemetery | N | N | P | P | N | N | N | N |
| Animal Hospital | N | N | P | P | N | N | N | N |
| Animal Kennel | N | N | SE | SE | N | N | N | N |
| Artist and Hobby Supplies (sale of) | P | P | P | N | N | N | N | N |
| Asphalt, Batch Or Concrete Plant | N | N | N | N | N | C | N | N |
| Automotive Repair Garage | P | P | N | N | P | P | N | N |
| Automotive Sales | P | P | P | N | N | N | N | N |
| Automotive Supplies (sale of) | P | P | N | N | N | N | N | N |
| Automotive Wrecking Yard | N | N | N | N | C | C | N | N |
| Banks & Similar Financial Services | P | P | N | N | N | N | N | N |

| NONRESIDENTIAL USES ¹ | B-2 | B-3 | A-1 | C-1 | 1-1 | I-2 | S-1 | AO |
|--|-----|-----|-----|-----|-----|-----|-----|----|
| Banks & Similar Financial Services | P | P | N | N | N | N | N | N |
| Bakery | P | P | N | N | P | P | N | N |
| Beauty and Barber Shops | P | P | P | N | N | N | N | N |
| Big Box Retail Store | C | C | N | N | N | N | N | N |
| Bulk Fuel Storage Facility | N | N | N | N | P | P | N | N |
| Bottle Club or BYOB Club | N | N | N | N | N | C | N | N |
| Car Wash and Auto Detailing | SE | P | N | N | N | N | N | N |
| Cemetery | N | N | N | P | N | N | N | N |
| Clothing and Clothing Accessories (sale of) | P | P | N | N | N | N | N | N |
| Commercial Communications Facility | N | N | C | C | C | C | N | C |
| Commercial Communications Antenna (attached to an existing building) | P | P | SE | SE | SE | SE | SE | P |
| Commercial Communications Antenna (attached to an existing Public Utility Transmission Tower) | P | P | P | P | P | P | P | P |
| Commercial Greenhouses and Nurseries | N | P | P | P | P | P | N | N |
| Continuing Care Facility | N | SE | N | N | N | N | P | N |
| Contractors Storage Yards | C | C | N | N | P | P | N | N |
| Country Club | N | N | P | P | N | N | N | N |
| Convenience Store | P | P | N | N | P | P | N | N |
| Convenience Stores with Gas Sales | P | P | N | N | P | P | N | N |
| Cultural Center | N | N | N | N | N | N | P | N |
| Day Care Facilities | SE | P | P | N | N | N | SE | N |
| Detention Facility | N | N | N | N | N | C | N | N |
| Drive Through Commercial Uses | P | P | P | N | N | N | N | N |
| Drug Treatment Center | N | N | N | N | N | C | N | N |
| Emergency Services Facility | P | P | P | P | P | P | P | P |
| Entertainment Facilities | SE | P | N | N | N | N | N | N |
| Equipment Sales and Repairs | P | P | P | N | P | P | N | N |
| Extraction of Minerals | N | N | C | C | C | C | N | N |
| Flea Market | SE | SE | N | N | N | N | N | N |
| Food Processing Establishment | N | N | N | N | P | P | N | N |
| Food Products (sale of) | P | P | P | N | N | N | N | N |
| Forestry (as defined in Article 2) | P | P | P | P | P | P | P | P |
| Furniture or Office Supplies and Equipment (sale of) | P | P | N | N | N | N | N | N |
| Greenhouse | P | P | P | P | P | N | N | N |
| Garden Center | P | P | P | P | P | N | N | N |
| Gas Station, Limited-Service | P | P | P | N | P | P | N | N |
| Health Spa | P | P | N | N | N | N | N | N |
| Home Improvements Store | P | P | N | N | N | N | N | N |
| Hookah Lounge or Bar | N | N | N | N | C | C | N | N |
| Hotels and Motels | N | C | N | N | P | P | N | N |
| Household Goods and Appliances (sale of) | P | P | N | N | N | N | N | N |

| NONRESIDENTIAL USES¹ | B-2 | B-3 | A-1 | C-1 | 1-1 | 1-2 | S-1 | AEO |
|--|------------|------------|------------|------------|------------|------------|------------|------------|
| Hunting or Fishing Clubs | N | N | P | P | N | N | N | P |
| Industry, Heavy | N | N | N | N | C | C | N | N |
| Industry, Light | N | N | N | N | P | P | N | N |
| Intermediate-Care Facility | N | P | N | N | N | N | P | N |
| Junk Yards | N | N | N | N | N | C | N | N |
| Library | P | P | N | N | N | N | P | N |
| Laundromat, Self-Service | SE | P | N | N | N | N | N | N |
| Machine Shop | SE | SE | N | N | P | P | N | N |
| Massage Establishment by Medical Practitioner | SE | P | N | N | N | N | N | N |
| Medical Clinic | SE | SE | N | N | N | N | P | N |
| Methadone Treatment Facility | N | N | N | N | N | N | C | N |
| Mixed Use Structure | SE | SE | N | N | N | N | SE | N |
| Manufactured Home Sales Lot | N | P | P | N | N | N | N | N |
| Mortuaries and Crematories | SE | P | N | N | N | N | N | N |
| Newspapers, Books & Stationery Supplies (sale of) | P | P | N | N | N | N | N | N |
| Night Club | N | SE | N | N | N | N | N | N |
| Nonprofit Social Hall And Clubs | SE | P | SE | N | N | N | N | N |
| Outdoor Storage | N | N | N | P | P | P | N | N |
| Personal Services | P | P | P | N | N | N | N | N |
| Pharmaceutical Products (sale of) | P | P | N | N | N | N | N | N |
| Photocopying Services | P | P | N | N | N | N | N | N |
| Photographic Studios & Commercial Photography | P | P | N | N | N | N | N | N |
| Place of Worship | SE | SE | SE | N | N | N | SE | N |
| Professional Offices | P | P | N | N | N | N | N | N |
| Publicly Owned Building and/or Facility | P | P | P | P | P | P | P | N |
| Public Utility Facilities, Essential (excluding storage yards) | SE | SE | SE | SE | SE | SE | SE | N |
| Recreational Facilities, Commercial | N | SE | SE | SE | N | N | N | N |
| Recreational Facilities, Private | N | N | N | C | N | N | N | N |
| Recreational Facilities, Public | P | P | P | P | P | N | P | N |
| Recycling Collection Center (publicly owned) | SE | SE | N | N | N | N | N | N |
| Repair Services, Miscellaneous | P | P | P | N | P | N | N | N |
| Restaurants | P | P | SE | N | N | N | N | N |
| Retail Sale Establishments (as define in Article 2) | P | P | SE | N | N | N | N | N |
| School | SE | SE | SE | N | N | N | SE | N |
| Self-Storage Facility | P | P | P | P | N | N | N | N |
| Skilled Nursing Facility | SE | P | N | N | N | N | P | N |
| Service Offices | P | P | N | N | N | N | N | N |
| Sexually Oriented Uses as defined in Article 2 | N | N | N | N | N | C | N | N |
| Shopping Center | N | C | N | N | N | N | N | N |
| Solar Energy System (Major): | N | N | N | N | N | N | N | C |
| Solar Farm | N | N | N | N | N | N | N | C |

| NONRESIDENTIAL USES¹ | B-2 | B-3 | A-1 | C-1 | 1-1 | I-2 | S-1 | AEO |
|---|------------|------------|------------|------------|------------|------------|------------|------------|
| Solid Waste Facility | N | N | N | N | N | C | N | N |
| Sporting Goods (sale of) | P | P | P | N | N | N | N | N |
| Tattoo Parlor/Body-Piercing Studio | N | N | N | N | C | C | N | N |
| Taverns | P | P | N | N | N | N | N | N |
| Trucking Facility | N | N | N | N | C | P | N | N |
| Vehicle Repair & Storage | N | P | N | N | P | P | N | N |
| Variety and Sundry Goods (sale of) | P | P | N | N | N | N | N | N |
| Warehouse Facilities (including storage yards) | N | P | N | N | P | P | N | N |
| Welding Shop | SE | SE | N | N | P | P | N | N |
| Wind Energy Facility | N | N | N | N | N | N | N | C |
| Accessory Nonresidential Structures ¹ | P | P | P | P | P | P | P | P |
| MISCELLANEOUS NONRESIDENTIAL USES¹ | B-2 | B-3 | A-1 | C-1 | I-1 | 1-2 | S-1 | AEO |
| Any nonresidential use permitted by right or by special exception excluding agricultural uses, and forestry shall be deemed a conditional use if it involves either of the following: | | | | | | | | |
| (a) the initial or cumulative earth disturbance activity or use of property which equals or exceeds 40,000 square feet of surface area. OR | C | C | C | C | | C | C | C |
| (b) the initial or cumulative construction, placement or installation of a building, structure and/or development which equals or exceeds 20,000 square feet. | C | C | C | C | | C | C | C |
| Any use which utilizes and/or stores any hazardous substances (as defined in Article 2) | N | N | N | N | C | N | N | N |
| Standalone Noncommercial Windmill ² | SE | SE | SE | SE | SE | SE | SE | SE |
| Minor Solar Energy System (Minor) ² | SE | SE | SE | SE | SE | SE | SE | SE |

¹ Uses may also be subject to supplemental regulations as contained in either Article 3 or Article 8 of this Ordinance.

² Roof-mounted units shall be permitted by right in all zoning districts subject to not exceeding the maximum height limitations in the zoning district in which they are located.

SECTION 503 ZONING DISTRICT DIMENSIONAL REGULATIONS TABLE

| ZONING DISTRICT | Minimum Lot Size | Minimum Width | Minimum Depth | Minimum Front Yard | Minimum Rear Yard | Minimum Each Side Yard | Maximum Height | Maximum % of Lot Coverage |
|-------------------------|------------------|---------------|---------------|--------------------|---------------------|------------------------|----------------|---------------------------|
| R-1 with Public Sewers | 10,000 sq. ft. | 75 ft. | 120 ft. | 30 ft. | 40 ft. | 12 ft. | 35 ft. | 40% |
| R-1 with Onsite Sewage | 43,560 sq. ft. | 150 ft. | 200 ft. | 30 ft. | 40 ft. | 12 ft. | 35 ft. | 20% |
| R-1A with Public Sewers | 20,000 sq. ft. | 100 ft. | 150 ft. | 40 ft. | 40 ft. | 15 ft. | 35 ft. | 40% |
| R-1A with Onsite Sewage | 43,560 sq. ft. | 150 ft. | 200 ft. | 30 ft. | 40 ft. | 15 ft. | 35 ft. | 20% |
| R-2 with Public Sewers | 6,000 sq. ft. | 60 ft. | 100 ft. | 20 ft. | 25 ft. | 10 ft. | 35 ft. | 50% |
| R-2 with Onsite Sewage | 43,560 sq. ft. | 150 ft. | 200 ft. | 30 ft. | 40 ft. | 10 ft. | 35 ft. | 20% |
| B-2 with Public Sewers | 10,000 sq. ft. | 50 ft. | 100 ft. | 20 ft. | 20 ft. ¹ | 20 ft. ¹ | 35 ft. | 60% |
| B-2 with Onsite Sewage | 43,560 sq. ft. | 150 ft. | 200 ft. | 20 ft. | 20 ft. ¹ | 20 ft. ¹ | 35 ft. | 20% |
| B-3 with Public Sewers | 20,000 sq. ft. | 100 ft. | 150 ft. | 50 ft. | 40 ft. | 15 ft. ¹ | 35 ft. | 40% |
| B-3 with Onsite Sewage | 43,560 sq. ft. | 150 ft. | 200 ft. | 50 ft. | 40 ft. | 15 ft. ¹ | 35 ft. | 20% |
| C-1 | 43,560 sq. ft. | 150 ft. | 200 ft. | 50 ft. | 50 ft. | 25 ft. | 35 ft. | 20% |
| A-1 | 43,560 sq. ft. | 150 ft. | 200 ft. | 50 ft. | 50 ft. | 25 ft. | 35 ft. | 20% |
| 1-1 | 87,120 sq. ft. | 150 ft. | 200 ft. | 50 ft. | 50 ft. | 25 ft. ² | 35 ft. | 30% |
| 1-2 | 87,120 sq. ft. | 150 ft. | 200 ft. | 50 ft. | 50 ft. | 25 ft. ² | 35 ft. | 30% |
| S-1 with Public Sewers | 20,000 sq. ft. | 150 ft. | 100 ft. | 20 ft. | 20 ft. | 20 ft. | 35 ft. | 60% |
| S-1 with Onsite Sewage | 43,560 sq. ft. | 150 ft. | 200 ft. | 50 ft. | 50 ft. | 25 ft. | 35 ft. | 20% |

¹ 35 feet when adjoining property contains a residential property and/or residential zoning district.

² 50 feet when abutting any R District, C-1 District or A-1 District.

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 Section 1510.2, the respective zoning district in which the use is located, all other applicable regulations of this Ordinance, including but not limited to Supplemental Standards as set forth in Article 8 of this Ordinance, other ordinances of Foster 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 application and an application for hearing before the Zoning Hearing Board, a site plan at a scale of not greater than

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

OR

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

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

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

1. Copy of the deed to the property.
2. The location and size of all buildings and structures, both principal and accessory, both existing and proposed.
3. The location of all off-street parking areas and/or loading and unloading areas.

4. The location of all open space areas, including buffer areas and fencing, as applicable.
5. Traffic access to the site and internal traffic circulation including the width and pavement of traffic lanes, and aisle widths.
6. All streets, both public and private within two-hundred (200) feet of the site, including right-of-way and cartway widths.
7. Streams, ponds, watercourses, wetlands, or any other types of bodies of water, including natural or man-made drainage swales, located on the site or within two hundred (200) feet of the site.
8. Any areas of the property that are subject to flooding including but not limited to the boundaries of any FEMA designated 100 Year Flood Plains based upon the most recent Flood Insurance Rate Maps (FIRM) for the Township.
9. The location, nature and terms of any existing or proposed easements on the site.
10. The Map, Block and Lot Number of the subject parcel, as contained in the records of the Office of the Luzerne County Recorder of Deeds.
11. 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.
12. In cases when a proposed use includes new construction and/or grading of the site, the applicant, in addition to compliance with the Township Stormwater Management Ordinance, shall provide upon the site plan the contours of the site at vertical intervals of:
 - not more than five (5) feet for land with an average natural slope of five (5%) percent or less.
 - not more than ten (10) feet for land with an average natural slope exceeding five (5%) percent.
 - not more than twenty (20) feet for land with an average natural slope exceeding fifteen (15%) percent.

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

15. The applicant shall supply any other information required by the Foster Township Zoning Hearing Board for determining the conformance of the special exception use with the applicable regulations for that particular use.

SECTION 604 IMPACT ANALYSIS

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

ARTICLE 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 Foster Township Board of Supervisors, with the Foster 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 PLANS, INFORMATION AND PROCEDURES FOR CONDITIONAL USES

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

OR

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

Such plan shall, at minimum, indicate:

1. The location and size of all buildings and structures, both principal and accessory, both existing and proposed.
2. The location of all off-street parking areas and/or loading and unloading areas.
3. The location of all open space areas, including buffer areas and fencing, as applicable.

4. Traffic access to the site and internal traffic circulation including the width and pavement of traffic lanes, and aisle widths.
5. All streets, both public and private within two-hundred (200) feet of the site, including right-of-way and cartway widths.
6. Streams, ponds, watercourses, wetlands, or any other types of bodies of water, including natural or man-made drainage swales, located on the site or within two hundred (200) feet of the site.
7. Any areas of the property that are subject to flooding including but not limited to the boundaries of any FEMA designated 100 Year Flood Plains based upon the most recent Flood Insurance Rate Maps (FIRM) for the Township.
8. The location, nature and terms of any existing or proposed easements on the site, and any easements both on-site and off-site which are used or intended to be used for access to the site, including the name and address of the owner or owners granting such easement.
9. The location of any residential structures which border the site on an adjoining lot and/or those within two hundred (200) feet of any property boundary line of the subject site.
10. The Map, Block and Lot Number of the subject parcel, as contained in the records of the Office of the Luzerne County Recorder of Deeds.
11. 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.
12. In cases when a proposed use includes new construction and/or grading of the site, the applicant, in addition to compliance with the Township Stormwater Management Ordinance, shall provide upon the site plan the contours of the site at vertical intervals of:
 - not more than five (5) feet for land with an average natural slope of five (5%) percent or less.
 - not more than ten (10) feet for land with an average natural slope exceeding five (5%) percent.
 - not more than twenty (20) feet for land with an average natural slope exceeding fifteen (15%) percent.

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

13. If applicable, the applicant shall submit a Soil Erosion and Sedimentation Plan and/or NPDES Permit for review and approval by the Luzerne County Conservation District.
 14. The applicant shall submit with the site plan, a narrative that outlines and fully describes all proposed uses or development of the site, along with all pertinent operational aspects, features and/or activities related to the proposed uses or development of the site.
 15. The applicant shall supply any other information required by the Foster Township Board of Supervisors for determining the conformance of the conditional use with the regulations for that particular use.
- B. Prior to approving or denying an application for a conditional use, the 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 Foster 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 convene a hearing on a conditional use application within sixty (60) days from the date of the applicant's request, unless the applicant has agreed in writing to an extension of time. The sixty (60) day time period shall not commence until the applicant has submitted a properly completed application, with all required signatures and all required fees. Each subsequent hearing shall be held within forty-five (45) days of the prior hearing unless otherwise agreed to by the applicant in writing or on the record.
- E. The Board of Supervisors shall render a final decision on a conditional use application, within forty-five (45) days following the conclusion of the last public hearing. If the Board of Supervisors fails to render a final decision within forty-five (45) days following the conclusion of the last public hearing the decision shall be deemed to have been rendered in favor of the applicant, unless the applicant has agreed in writing or on the record to an extension of time.

If the Board of Supervisors fails to conduct or complete the required hearing as provided for under Section 1506(D) of this Ordinance, the decision shall be deemed to have been rendered in favor of the applicant unless the applicant has agreed in writing or on the record to an extension of time.

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

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

SECTION 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 Community Development Objectives, and is generally consistent with those as set forth in Article 1 of this Ordinance.
- B. Public services and facilities such as streets, sewers, water, police, and fire protection shall be adequate for the proposed use and/or development.
- C. Existing streets and proposed access to the site shall be adequate regarding the width and pavement for emergency service vehicles.
- D. The proposed use shall not adversely affect the public health, safety and welfare due to changes in traffic conditions. Existing streets and proposed access to the site shall be adequate to accommodate anticipated traffic volumes in a manner that avoids undue traffic congestion, and provides for the safety and convenience of pedestrian and vehicular traffic. The proposed use shall not result in unsafe or dangerous traffic conditions .
- E. The proposed use shall be compatible with adjoining development and the character of the zoning district and neighborhood in which it is proposed to be located. The nature and intensity of the operation of the proposed use shall be considered regarding its compatibility or lack thereof.
- F. The proposed use shall not adversely affect neighborhood property values and aesthetic characteristics in the neighborhood where it is proposed to be located.
- G. The proposed use shall not adversely affect the public health, safety and welfare as related to drainage, air quality, noise and natural features of the land. The proposed use and/or development shall not be more objectionable in its operations in terms of noise, fumes, odors, vibration, or lights than would be the operations of any permitted use in the subject Zoning District.

- H The submission of any reports and/or studies, required by the Board of Supervisors within the context of the definition "Impact Analysis" as contained defined in Article 2 of this Ordinance, which conclusively demonstrates that the proposed use or development will not have a negative impact upon the particular subject or subjects as defined by the Board of Supervisors, in requiring such reports and/or studies.
- I The proposed use and/or development shall not be injurious to the public interest.

In granting approval, the Board of Supervisors 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 705 ENVIRONMENTAL IMPACT STATEMENT

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

705.01. 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.

705.02 SURFACE WATERS

- a. Distance of site from the nearest surface water and head waters of streams.
- b. Sources of runoff water.
- c. Rate of runoff from the site.
- d. Destination of runoff water and method of controlling downstream effects.
- e. Chemical additives to runoff water on the site.

- f. Submission of a soils erosion and sedimentation control plan meeting the requirements of the Luzerne County Conservation District.
- g. A storm water management plan which shall be developed in coordination with the soils erosion and sedimentation plan.

705.03 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.

705.04 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.

705.05 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.

705.06 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.

705.07 SEWAGE SYSTEM

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

705.08 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.

705.09 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.

705.10 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.

705.11 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. Projected amount and type of traffic to be generated and the effects of the same on public roads and highways.

705.12 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.

705.13 OTHER GOVERNMENTAL JURISDICTION

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

705.14 REVIEW PROCEDURE OF ENVIRONMENTAL IMPACT STATEMENT

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

ARTICLE 8
SUPPLEMENTAL REGULATIONS

SECTION 801 PURPOSE AND INTENT

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

801.01 AGRICULTURAL USES

- A. Horse Stables and Riding Academies: The minimum lot size shall be two acres, and the maximum density shall be one horse per acre. No storing manure shall be located within 250 feet of any lot line. Manure shall be regularly collected and disposed of in such a manner so as to prevent odors and surface liquids from leaving the property.
- B. Raising of Livestock or Poultry: Minimum lot size for the raising of livestock or poultry shall be five acres, and the raising of more than 50 animals shall require a minimum lot size of 25 acres. In both cases, the minimum building and other impervious surface coverage shall not exceed 10%. Any structure or concentrated feeding or grazing area for the raising of 50 or less animals shall be located not less than 100 feet from a lot line, and 250 feet from any lot line of an existing residential dwelling unit, or residential zoning district. This section shall not be interpreted to permit an agricultural use in a residential district. Any structure or concentrated feeding or grazing area for the raising of more than 50 animals shall be located not less than 300 feet from a lot line, and 1,000 feet from any lot line of an existing residential dwelling unit, or residential zoning district. No animals, animal products, or animal waste/manure shall be permitted within the required yard areas. Manure storage facilities and concentrated feeding areas used for the keeping of livestock or poultry shall not be located within 250 feet of any stream, body of water, floodplain, water source, water well or open sinkhole. Any operation regulated under the Pennsylvania Nutrient Management Act shall provide evidence that the use will comply with the applicable provisions of the Act. Access drives shall be sufficient in size to accommodate the anticipated amount, type and size of vehicular traffic.
- C. Retail Sales of Agricultural Products (including Nurseries): The erection of temporary structures shall be permitted provided that they are disassembled at the end of each season when products are not being offered for sale. No area, temporary structure, stand, parking area or loading space utilized for the sale of agricultural products shall be located less than 50 feet to any existing residential dwelling unit, residentially zoned boundary line, and street right-of-way; and not less than 100 feet of any street intersection. The applicant shall prove that the all access drives have adequate sight distances based upon Pennsylvania Department of Transportation regulations and guidelines regardless of whether the access drive abuts a state highway.

801.02 ANIMAL HOSPITAL

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

801.03 APARTMENT BUILDINGS / TOWNHOUSES (MULTI-FAMILY DWELLING UNITS) AND TWO-FAMILY DWELLING UNITS

Townhouse buildings shall contain no more than eight single-family dwelling units. Maximum building height shall be three stories or 35 feet. Maximum percentage of building coverage on a lot per dwelling unit, exclusive of common or public open areas, shall be 30%. A lot area of 3,000 square feet shall be required for each dwelling unit. A minimum lot width of not less than 150 feet shall be required for apartment building and 20 feet for each Townhouse Unit. The minimum distance between principal structures shall be 25 feet. The exterior appearance of the building shall be so constructed and maintained so as to retain the residential character of the neighborhood. Fire escapes, when required, shall be located in the rear of the building and shall not be located on any side of the building that faces a street. Service entrances, trash and garbage and drying yards shall be enclosed, and screened from public view. No dwelling unit shall have its own driveway entering onto an arterial or collector street. Public or central sanitary sewer must be available.

801.04 ASSISTED LIVING FACILITIES, NURSING HOMES OR PERSONAL CARE CENTERS.

The minimum lot size shall be one acre. All buildings shall be located not less than 50 feet from any property line or street line. A minimum of 20% of the lot shall be designed, developed, used, and maintained for outdoor recreational activities limited to one or more of the following: garden areas, sitting areas, picnic areas and/or pedestrian walkways.

801.05 AUTOMOBILE RELATED ACTIVITIES

- A. Automotive 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. All paint work shall be performed within a building, with a ventilation system that directs fumes away from adjacent properties and buildings. Temporary outdoor parking of vehicles intended to be replaced is permitted in the side or rear yard areas only, and those vehicles shall be licensed and inspected at all times. Only vehicles to be repaired on the premises or picked up by the vehicle owner may be stored in the yard area. Storage of vehicles shall be permitted for no longer than 30 days. Service bays shall face the front yard property line whenever possible. 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. Outdoor trash dumpsters shall be concealed within an area surrounded by solid opaque fencing not less than six (6) feet in height. Outside lighting shall be directed away from adjacent properties.
- B. Automotive Sales: The outdoor display of new or used automobiles, boats, recreational vehicles, motorcycles, manufactured homes or mobile homes shall meet the required principal building setback requirements. 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. Outdoor trash dumpsters shall be concealed within an area surrounded by solid opaque fencing not less than six (6) feet in height. Outside lighting shall be directed away from adjacent properties.

- C. Car Wash: Appropriate drainage facilities for washing activities shall be provided wherein water from the car wash will not flow onto sidewalks, streets or adjoining properties. The site shall be sufficiently large to accommodate three (3) cars per stall waiting washing during peak periods so that lines along public streets are avoided. Such operations shall also comply with any applicable regulations of the Pennsylvania Department of Environmental Protection. Car wash operations abutting on the side or rear property lines of a district having residences as a principal permitted use shall provide a solid wall or substantial, attractive, tight fence six (6') feet in height and well maintained along such boundary. Outdoor trash dumpsters shall be concealed within an area by a solid fence, not less than six (6) feet in height. Outdoor lighting shall be directed away from adjacent properties
- D. Gas Station, Limited-Service, Gas Stations (Also Includes Convenience Stores with Gasoline Sales): Where such use abuts on the rear or side lot line of a district having residences as a principal permitted use or a property being used for residential purposes, the following requirements shall apply to the side and rear yard property boundaries:
1. Construction of a solid wall or solid opaque fencing eight (8) feet in height, designed to conceal and screen the property from adjoining properties.
 2. Within a required rear yard or side yard setback, there shall be a landscaped planting strip not less than four (4) feet in depth, planted with shrubs or trees which are not less than three (3) feet high at the time of planting and which are of a type that may be expected to form a year-round dense screen at least six (6) feet high within three (3) years. The landscaped planting strip shall be maintained in good condition at all times, including the replacement of any shrubs or trees which are damaged, die or otherwise fail to grow.
 3. Outdoor trash dumpsters shall be concealed within an area surrounded by solid opaque fencing not less than six (6) feet in height.
 4. Gasoline pumps or other service appliances and canopies may be located in the required front yard subject to having a setback of not less than twenty-five (25) feet from the right-of-way line of the adjoining street. All repair services, 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.

801.06 BED AND BREAKFAST

A Bed and Breakfast shall be within an owner occupied dwelling which are rented on a nightly basis for periods of normally not more than a week. There shall not be separate cooking facilities in any guestrooms. Dining and other facilities shall not be open to the public, but shall be exclusively for the use of the residents and registered guests. Two off street parking spaces shall be provided for each rental unit.

No signs, show windows or any type of display or advertising shall be visible from

outside the premises, except for a single wall or freestanding sign, which shall not be internally illuminated, with a maximum sign area of four square feet on each of two sides, if freestanding, and with a maximum height of eight (8) feet.

In a residential district, the exterior of the building shall not be changed in any way that would decrease its residential appearance and character, except for needed modifications for historic restoration, handicapped access or fire safety.

802.07 BIG BOX RETAIL STORE

A. PRE-APPLICATION CONFERENCE

Prior to submitting a complete conditional use application for a large retail establishment, the applicant is encouraged to meet with the Township Planning Commission and the Board of Supervisors to discuss the conditional use permit process and issues that may affect the proposed conditional use. This meeting is to provide for an exchange of general and preliminary information only and no statement made in such meeting by either the applicant or the members of the Planning Commission or Board of Supervisors shall be regarded as binding or authoritative.

B. SITE PLAN

A site plan shall be required which illustrates the specific location of setbacks, easements, all existing and proposed buildings and structures, access points, buffering, vehicular and pedestrian circulation patterns, parking, signage, loading and delivery areas, mechanical equipment, drainage, landscaping, and the specific location of the use or uses of the development, elevation plans and profiles of all proposed structures, and other information necessary to establish that all applicable requirements will be met.

C. PARKING LOTS

1. Four (4) spaces for each 1,000 square feet of gross floor area.
2. The number of off-street parking spaces shall not exceed 110% of the required minimum number of off-street parking spaces.
3. Provide for bicycle access, including bike lanes where appropriate.
4. Provide customer trash receptacles throughout the parking lot. The parking lot shall be cleared daily of all trash, debris or other discarded material not placed within trash receptacles.
5. All parking lots will be posted 'No Overnight Camper or Trailers Permitted' with enforcement of the same being the responsibility of the applicant.

D. DRAINAGE AND SURFACING OF OFF-STREET PARKING AREAS

Excluding points of ingress or regress, the paved parking area shall be curbed. Approval of a Stormwater Management Plan, in compliance with the Foster Township Stormwater

Management Ordinance shall be required.

E. LANDSCAPING AND SCREENING REQUIREMENTS

1. A planting bed with a minimum width of 10' shall be located between parking lots and the street right of way.
2. Landscaping shall be used along site boundaries as required to screen blank walls, service and loading areas and open parking.
3. An evergreen or mixture of evergreen and deciduous vegetation designed to be maintained at a height of at least 2.5' and not more than 3.5' is required along the street frontage of any open parking lot.
4. Surface parking lots shall provide internal landscaping at the rate of a minimum of 10 square feet of landscaped area per parking stall. This is a minimum requirement and may be increased to meet other criteria contained in this Title. The landscaping shall include at least one shrub for every 20 square feet of landscaped area and one shrub per enclosed bed. One tree shall be required for every 10 open parking spaces. Vegetation ground cover shall be provided for all landscaped areas that will provide 90% coverage within 2 years. Landscaping designs shall include evergreen materials.
5. Drought tolerant materials shall be used for all plantings.
6. Screening must be provided along side and rear exterior lot lines which is adjacent to a residential use and/or district. Unless otherwise required, the following landscaping and screening provisions will apply. A 6 foot wall, fence, berm, evergreen screening plant material, or a combination of wall, fence, berm or evergreen screening plant material with a combined minimum height of 6 feet above grade shall be used for the purposes of screening. If evergreen plant material is used, it must be at least 4 feet in height at the time of planting and capable of forming a continuous opaque screen at least 6 feet in height, with individual plantings spaced not more than 5 feet apart. Berms shall have a side slope no greater than 3:1.

F. SIGNS.

1. The total square feet of all types of signage located upon the property shall not exceed 3 times the amount of frontage of the lot.
2. Blinking, animated, moving or changeable copy signs are prohibited.
3. Signs on the building shall not extend above the parapet or roof line. Parapet walls may not be erected for the sole purpose of extending sign heights and when they are not in character with the rest of the building or complex.
4. Signs shall be designed and located to minimize impacts on residential uses. Signs shall not be located on any wall, canopy or building façade facing abutting Residential zones.

5. A free standing sign shall not exceed two hundred and fifty (250) square feet in area and shall not exceed a height of 25 feet.
6. A freestanding sign shall have a minimum setback of fifteen (15) feet from any property line as measured from the outer most edge of the sign.
7. Only one freestanding sign shall be allowed on each street frontage.
8. No directional sign shall exceed thirty (30) square feet in area and there shall be no limitation on the number of on-site directional signs
9. No more than eight (8) wall signs may be displayed on a building.
10. No Temporary sign shall exceed two hundred (200) square feet,

G. PEDESTRIAN ACCESS AND CIRCULATION

1. Public sidewalks at least 6 feet in width shall be provided along all public streets.
2. Continuous internal pedestrian walkways shall be provided from the public sidewalk or right-of-way to the principal customer entrance of all large retail establishments on the site. The walkways shall have a minimum width of 6 feet, exclusive of vehicle overhang area. At a minimum, walkways shall connect focal points of pedestrian activity such as, but not limited to, transit stops, street crossings, building and store entry points, and shall feature adjoining landscaped areas that include trees, shrubs, benches, flower beds, ground covers or other such materials for no less than 50% of the length of the walkway.
3. Sidewalks shall be provided along the full length of the building along any facade featuring a customer entrance, and along any facade abutting public parking areas. The sidewalk shall have a minimum width of 6 feet, exclusive of vehicle bumper overhang area. Such sidewalks shall be located at least 6 feet from the facade of the building to provide planting beds for foundation landscaping, except where features such as arcades or entryways are part of the facade.
4. Awnings, canopies, marquees, arcades, building overhangs or similar forms of pedestrian weather protection, at least 4.5 feet wide shall be provided over a pedestrian walkway along at least 80% of any facade with a customer entrance. Such weather protection shall be at least 8 feet above the sidewalk. If placed more than 8 feet above the walkway, the weather protection shall be at least an additional 6" in width for each additional foot of height, or portion thereof.
5. All internal pedestrian walkways shall be distinguished from driving surfaces through a change in material. Durable, low maintenance surface materials such as pavers, bricks or scored concrete shall be used to enhance pedestrian safety and comfort, as well as the attractiveness of the walkways. . Signs shall be installed to designate pedestrian walkways.
6. Walkways shall be designed for pedestrian safety and shall avoid or mitigate vehicle and pedestrian route conflicts through lighting, bollards and other features.

7. Cart corrals shall not encroach on walkways.
8. Bike racks shall be located in a well-lighted area close to building entrances.

H. OUTDOOR STORAGE, TRASH COLLECTION, AND LOADING AREAS

1. Areas for outdoor storage, truck parking, trash collection or compaction, loading, or other such uses shall not be visible from public or private rights-of-way.
2. No areas for outdoor storage, trash collection or compaction, loading, or other such uses shall be located within 20 feet of any public or street, public sidewalk, or internal pedestrian way.
3. Loading docks, truck parking, outdoor storage, utility meters, HVAC equipment, trash dumpsters, trash compaction, and other service functions shall be incorporated into the overall design of the building and the landscaping so that the visual and acoustic impacts of these functions are fully contained and out of view from adjacent properties and public streets..
4. Non-enclosed areas for the storage and sale of seasonal inventory shall be permanently defined and screened with walls and/or fences. Materials, colors, and designs of screening walls and/or fences and the cover shall conform to those used as predominant materials and colors of the building.

I. LIGHTING

1. All outdoor lighting shall be sized and directed to avoid adverse impact and spillover onto adjacent properties. Upward directed lighting is prohibited. Outside parking lot lighting shall not be less than one foot candle per IES (Illuminating Engineering Society of North America) minimum lighting standards at the property line, and shall be designed to minimize glare and spillover onto adjacent properties. Building and aesthetic lighting must be shielded to prevent direct glare and/or light trespass in excess of one foot candle at the property line.
2. Night lighting shall be provided for all pedestrian walkways.
3. All exterior lighting shall utilize cutoff shields or otherwise be designed to conceal the light source from adjoining uses and streets.
4. The maximum height of light poles in parking lots shall not exceed 20'.

801.08 BOARDING/ROOMING HOUSE

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

801.09 BOTTLE CLUB

A Bottle Club, as so defined in Article 2 of this Ordinance, shall be located not 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 zoning district in which residences are permitted as a principal permitted use.

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 "Buffer Area" as so defined in Article 2 of this Ordinance. The owner of the property shall be responsible to maintain such the Buffer Area in good condition, including the replacement of any trees, which are damaged, die, removed by whatever means or otherwise fail to grow.

801.10 BULK FUEL STORAGE

Bulk fuel storage shall be located on a tract of land not less than ten (10) acres. Storage tanks shall be located not less than one thousand (1,000') feet from any property line and shall be not less than two thousand (2,000') feet from any dwelling, school, church or similar use. Cylinder filling rooms, pumps, compressors and truck filling stations shall be located five hundred fifty (500') feet from all property lines. The property 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.

801.11 CEMETERIES.

The minimum lot area shall be five (5) acres, which may be on the same lot as a permitted place of worship. All structures, graves or places of permanent burial shall be set back not less than 50 feet from all property lines and street lines, and shall not be located within any 100-year flood plain. The cemetery shall be enclosed by a fence, wall or shrubbery at least three feet in height. The interior roads shall have a minimum width of 12 feet and shall be properly maintained with either gravel or paving. The applicant and/or owner must provide sufficient proof that an appropriate financial system is in place or will be implemented to guarantee perpetual maintenance of the cemetery.

801.12 COMMERCIAL COMMUNICATION ANTENNAS ATTACHED TO BUILDING OR STRUCTURE)

A Commercial Communication Antenna when attached to an existing building or

structure shall require approval as a conditional use and shall be subject to the following requirements:

- (1) Commercial Communications Antenna shall not be located or permitted on any building or structure located within a Residential Zoning District.
- (2) A Commercial Communications Antenna mounted on a building or other structure shall not exceed eight (8) feet in height above the existing building or structure and shall not exceed three (3) feet in width.
- (3) A Commercial Communications Antenna shall comply with all applicable standards established by the Federal Communications Commission governing human exposure to electromagnetic radiation. A copy of the subject standards shall be submitted with a Zoning Permit Application along with a graphic depiction of the proposed Communications Antennas.
- (4) The applicant shall provide a copy of its current Federal Communication Commission license.
- (5) The applicant shall provide certification and documentation from a Pennsylvania registered professional engineer certifying that the proposed installation will not exceed the structural capacity of the building or structure, considering wind and other loads associated with such mount or location.
- (6) The applicant shall provide evidence of agreements and/or easements necessary to provide access to the building or structure on which the Commercial Communications Antenna is to be mounted.
- (7) The applicant shall provide A Certificate of Insurance evidencing general liability coverage in the minimum amount of \$1,000,000 per occurrence and property damage coverage in the minimum amount of \$1,000,000 million per occurrence.
- (8) An antenna mounted upon an existing structure shall be removed by the owner of the same within six (6) months of the discontinuance of its use. The owner shall provide Foster Township with a copy of the notice to the FCC of intent to cease operations. The six month period for the removal of an antenna mounted upon an existing structure shall commence on the date indicated for ceasing operations.

801.13 COMMERCIAL COMMUNICATION ANTENNAS (CO-LOCATION)

The placement of a Commercial Communication Antenna upon an existing Commercial Communication Tower or an existing Public Utility Transmission tower shall be Permitted by right in all nonresidential zoning districts. Said antenna shall be removed by the owner of the same within six (6) months of the discontinuance of its use. The owner shall provide Foster Township with a copy of the notice to the FCC of intent to cease operations. The six month period for the removal of an antenna mounted upon an existing structure shall commence on the date indicated for ceasing operations.

801.14 COMMERCIAL COMMUNICATIONS FACILITY

Commercial Communication Facilities shall be subject to the following requirements.

A. COMMERCIAL COMMUNICATIONS ANTENNA

- (1) Commercial Communications Antenna shall comply with all applicable standards established by the Federal Communications Commission governing human exposure to electromagnetic radiation. A copy of the subject standards shall be submitted with a Zoning Permit Application.
- (2) The applicant shall provide a copy of its current Federal Communication Commission license.

B. COMMERCIAL COMMUNICATION TOWER

- (1) A written statement and graphic depiction that describes and depicts the proposed Tower including the type of construction (monopole, lattice tower, guyed tower), tower height and the provision for co-location;
- (2) The submission of not less than three color photos, no smaller than 8 inches by 10 inches, taken from locations within a three (3) mile radius of the proposed site of a Communications Tower, as selected by the Board and computer enhanced to simulate the as-built appearance of the Tower as it would appear from these locations.
- (3) Certification and documentation from a Pennsylvania registered professional engineer that the proposed Tower will be designed in accordance with the current Structural Standards for Steel Antenna Towers and Antenna Supporting Structures, published by the Electrical Industrial Association/Telecommunications Industry Association and applicable requirements of the Pennsylvania Uniform Construction Code and other applicable regulations.
- (4) The name, address, and emergency telephone number for operator of the Tower;
- (5) The applicant shall demonstrate, using technological evidence, that the Tower must be located where it is being proposed and that it represents the minimum height required to function satisfactorily.
- (6) All new Towers shall be engineered and constructed to accommodate at least one (1) other user.
- (7) Unless required by the FAA, no Tower may use artificial or strobe lighting. The tower shall be a brownish color (whether painted brown or caused by oxidation or otherwise to lessen its visual impact) up to the height of the tallest nearby trees. Above that height, it shall be painted silver or another color that will minimize its visual impact.
- (8) A Tower shall be setback from all property lines a distance that is not

less than one hundred and twenty (120%) percent of the height of the Tower as measured in linear feet.

- (9) An applicant proposing the construction of a Tower shall demonstrate that a good faith effort has been made to obtain permission to mount the Communications Antennas on an existing building, structure or Communications Tower. A good faith effort shall require that all owners of potentially suitable structures within a one-half ($\frac{1}{2}$) mile radius of the proposed Tower site be contacted. The applicant shall supply supporting documentation for not selecting an alternate location.
- (10) All guy wires associated with a Guyed Tower shall be clearly marked at ground level so as to be visible at all times and shall be located within a fenced enclosure.
- (11) No signs shall be mounted on a Tower, except as may be required by the Federal Communications Commission, Federal Aviation Administration or other governmental agency that has jurisdiction, provided, however, that a sign shall be affixed to the security fence in an accessible and visible location containing the name and address of the owner of the Tower and a 24-hour emergency telephone number.

C. COMMERCIAL COMMUNICATIONS EQUIPMENT BUILDING:

A Commercial Communications Equipment Building shall meet the governing setback distances applicable to the district in which it is located.

D. DECOMMISSIONING AND RESTORATION REQUIREMENTS

A tower shall be removed from the site within six (6) months of its cessation of use. The applicant shall include the following information regarding decommissioning and removal of the tower and restoring the site:

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

project.

- (7) The sufficiency of the demolition bond shall be confirmed at least every five years by an analysis and report of the cost of removal and property restoration to be performed by a licensed professional engineer, the cost of same to be borne by the applicant. If said analysis and report determines that the amount of the bond in force is insufficient to cover the removal, disposal and restoration costs, the bond shall be increased to the amount necessary to cover such costs within 10 days of the applicant's receipt of such report.

E. INSURANCE REQUIREMENTS

The applicant shall provide a Certificate of Insurance evidencing general liability coverage in the minimum amount of \$1,000,000 per occurrence and property damage coverage in the minimum amount of \$1,000,000 million per occurrence covering the Commercial Communications Facility.

801.15 CONTRACTORS' STORAGE YARDS

Commercial or industrial uses utilizing outdoor storage space of more than two thousand (2,000) square feet shall be located on a tract of land of not less than one (1) acre with a complete listing of all types of items to be stored therein. No hazardous substances, as so defined in Article 2 of this Ordinance, shall be permitted upon the site. Supplies stored outdoors shall be neatly arranged and no required yard areas shall be used for storage. There shall be a roadway 14 feet in width provided for in every 40 linear feet of stored materials. The roadway shall be kept passable for fire-fighting equipment. Outside lighting shall be directed away from adjoining properties.

801.16 DAY CARE FACILITIES

All day care facilities shall comply with the following:

- A. The applicant or owner shall provide evidence of certification of compliance with all appropriate regulations of any designated State agency whose approval and/or license is required by the laws of the Commonwealth.
- B. Noise and all other possible disturbing aspects connected such use shall be controlled to the extent that the operation of such use shall not unduly interfere with the use and enjoyment of properties in the surrounding area.
- C. All day care facilities shall have an outdoor recreation area which shall be completely enclosed with a fence six (6') feet in height.
- D. The applicant shall supply evidence that vehicular traffic congestion will be avoided in "pick-up and drop-off points" utilized in transporting individuals to and from the facility.
- E. One off-street parking space shall be required for each employee.

- F. One off-street parking space shall be required for each vehicle used by the establishment for the purpose of transporting persons attending the facility

801.17 DETENTION FACILITY

The minimum lot size shall be 20 acres, All buildings must be setback not less than 500 feet from a property line. Where the detention facility abuts a zoning district where residences are a principal permitted use, or where an existing residential dwelling unit is located, a solid wall or substantial, attractive fence not less than ten feet in height shall be constructed and maintained in good condition along such boundary line, and a buffer area of not less than 300 feet in width must be landscaped, and maintained in good condition at all times. No structures, parking, loading, storage of any kind, or any use shall be allowed within the buffer area. All areas not used for access, parking circulation, buildings and services shall be completely and permanently landscaped and the entire site maintained in good condition.

801.18 DOG KENNELS

Any buildings, runways, fenced enclosures and similar structures shall be located not less than 100 feet from all property and street lines. Where the property abuts a zoning district having residences as a principal permitted use, all buildings runways, fenced enclosures and similar structures shall be located not less than 200 feet from such property lines.

801.19 DRIVE THROUGH FACILITIES.

Any use providing a drive-through (i.e. bank eating establishment, etc.) shall comply with the following requirements:

- A. The drive through lane or aisle shall be designed with adequate space for a minimum of four waiting vehicles per lane or aisle. There shall be a maximum of one lane or aisle per drive through window.
- B. Each drive through lane or aisle shall be clearly marked and designed so as to prevent traffic hazards and congestion while at the same time minimizing conflicts with pedestrian travel.
- C. Canopies situated over drive-through areas shall meet all setbacks requirements for the zoning district in which the property is located.

801.20 DWELLING OVER OR ATTACHED TO A BUSINESS

A dwelling unit over or attached to business establishments shall be designed as living quarters with private access, having adequate natural light and kitchen and bathroom facilities. Required residence parking and commercial parking must be provided for each use in accordance with the parking requirements of this Ordinance.

801.21 EMERGENCY SERVICES FACILITY:

Such a facility shall have a setback distance of not less than twenty-five (25) feet from all property lines. Where any parking area abuts the side or rear property lines of an adjoining residential use, a solid wall or solid opaque fencing eight (8) feet. In front of the fence or wall there shall also be a landscaped planting strip at least four (4) feet wide, planted with shrubs or trees which are not less than three (3) feet high at the time of planting and which are of a type that may be expected to form a year-round dense screen at least six (6) feet high within three (3) years.

801.22 ENTERTAINMENT FACILITIES

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

801.23 EXCAVATION OF MINERALS (as defined in Article 2)

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

- A. Project Narrative: A written report shall be submitted by the applicant that includes the type of minerals proposed to be excavated, extracted, and/or removed from the site, the volume of such material and the maximum length of time associated with the proposed operation based upon the stated volume of material. Said narrative shall also describe normal, daily operational features performed upon the site, including but not limited to, proposed hours of operation, anticipated noise levels, and the type and volume of truck traffic to be generated with the proposed traffic routes to and from the site.
- B. Map: Submission of a map or maps at a scale of not greater than one (1") inch equals fifty (50') feet, that outlines the entire property and the proposed area subject to excavation, extraction, and/or removal of minerals. Said map shall indicate existing contours prior to the start of work, and proposed final contours, including the proposed maximum depth of excavation at all points subject to excavation. Said map or maps shall also contain surface features showing the location of buildings, dwellings, places of worship, schools, railroads, highways and public uses within a distance of five hundred (500) feet from the perimeter of the proposed use.
- C. Distance Provisions: The perimeter of any excavation under this Section shall not be nearer than five hundred (500) feet from any building, property line or street, except that owned by the applicant.
- D. Limitation on Land Area: At any given time, the active excavation/extraction areas shall not exceed ten (10) acres in area on any lot or tract of land. Additional areas may be approved on the completion and cessation of previous approvals.

- E. Compliance With State Requirements: Final and/or unconditional approval for excavation, extraction and/or minerals under the provisions of this Ordinance shall not be issued until the applicant documents that all required licenses and/or permits have been properly secured from the applicable State and /or Federal agencies, including but not limited to the Pennsylvania Department of Environmental Protection.

801.24 FORESTRY- TIMBER HARVESTING ACTIVITIES

- A. Applicability. This Section applies to all timber harvesting and land clearing within Foster Township where the value of the trees, logs and/or other forest products removed exceeds \$1,000.00. The cutting of trees for the personal use of the landowner, or for pre-commercial timber stand improvement is exempt.
- B. Submission and Approval of Logging Plan.
1. Plan Approval Requirement. It shall be unlawful for any operator or landowner to conduct timber harvesting on more than five acres in the Foster Township except as provided in an approved logging plan which is available at the harvest site at all time during the operation.
 2. Plan submission, approval, and appeal. At least 30 business days before the operation is scheduled to begin, a landowner on whose land timber harvesting is to occur shall prepare and submit to the Township Zoning Officer a written plan or amendment in the form specified in this Section. Within 30 business days of the receipt of the plan or amendment, the Township Zoning Officer shall approve (with or without conditions) or deny the plan. The landowner may appeal the decision of the Zoning Officer within 30 days of issuance to the Zoning Hearing Board.
 3. Notification. The operator shall notify the Zoning Officer in writing at least two business days before operations commence and ten business days before operations are completed under an approved timber harvesting plan. The notification shall identify the operation, and, as applicable, shall specify the commencement or completion date.
- C. Contents of Logging Plan.
1. Minimum Requirements: As a minimum, the logging plan shall include the following:
 - i. Design, construction, maintenance and retirement of the access system, including, haul roads, skid roads, skid trails, and log landings;
 - ii. Design, construction and maintenance of water control measures and structures such as culverts, broad-based dips, filter strips, and water bars;
 - iii. Design, construction and maintenance of stream and wetland crossings;
 - iv. A stand prescription for each stand located in the proposed harvest area;
 - v. The general location of the proposed operation in relationship to municipal and state highways, including any access to those highways.

2. Map: Each logging plan shall include a site map containing the following information:
 - i. Site location and boundaries, including both the boundaries of the property on which the timber harvest will take place and the boundaries of the proposed harvest area within that property;
 - ii. Significant topographic features related to potential environmental problems;
 - iii. Location of all earth disturbance activities such as roads, landings, and water control measures and structures;
 - iv. Location of all crossings of waters of the Commonwealth; and
 - v. The general location of the proposed operation to municipal and state highways, including any access to those highways.
3. Compliance with all State and Local Laws and Regulations: The plan shall address and comply with the requirements of all applicable State land local laws and regulations including, but not limited to erosion and sedimentation control; stream crossing and wetland protection; and storm water management. Any permits required by state and local agencies shall be attached to and become a part of the logging plan.

D. Forest Practices. The following requirements shall apply to all timber harvesting activities within Foster Township:

1. Felling or skidding on or across any public thoroughfares is prohibited without the express written consent of the Township, County or Pennsylvania Department of Transportation; whichever is responsible for the maintenance of the thoroughfare.
2. No tops or slash shall be left within 25 feet of any public thoroughfare or private roadway providing access to adjoining property.
3. All tops and slash between 25 feet and 50 feet from a public roadway or private roadway providing access to any adjoining property or within 25 feet of any adjoining property line shall be lopped to a maximum height of four feet above the ground level.
4. No tops or slash shall be left on or across the boundary of any property adjoining the operation without the consent of the owner.
5. Litter resulting from a timber harvesting operation shall be removed from the site before the operator vacates it.
6. A buffer strip of at least 50 feet must be maintained along any road, stream, or recognized recreational trail. Selective cutting only will be allowed in these zones except for salvage cuts.

7. Timber operations and related activities shall be conducted only between the hours of 7:00 A.M. and 7:00 P.M. unless authorized by the Zoning Hearing Board.
 8. Soil carried or washed onto public streets during the operation shall be removed daily.
- E. Road Maintenance, Repair And Bonding. The landowner and the operator shall be responsible for repairing any damage to township, state, or county roads caused by traffic associated with the timber harvesting operation to the extent of the damage that is in excess of that caused by normal traffic. Pursuant to 67 Pennsylvania Code, Chapter 189, the Township may require the landowner or operator to furnish a bond to guarantee the repair of such damages.

801.25 GROUP HOME

Any party wishing to establish and/or operate a “Group Home,” 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 Home shall not exceed eight (8) persons, excluding staff. The occupancy of said Group Home shall be governed by the standards and requirements as provided for within the most recent housing code standards of the governing code as provided for under the Pennsylvania Uniform Construction Code.
- B. The Group Home shall be under the jurisdictional and regulatory control of a governmental entity (County, State, and/or Federal).
- C. The applicant and/or operator of a Group Home shall provide written documentation from the applicable governmental entity which certifies said Group Home 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 Home, however two (2) additional off-street parking spaces shall be provided for visitors and additional parking spaces shall be provided which equals the maximum number of required of staffing associated with the management and operation of a Group Home.
- E. A Group Home shall be operated and maintained in the character of a residential dwelling in harmony with and appropriate in appearance with the character of the general vicinity in which it is to be located.

801.26 HOME OCCUPATIONS

A home occupation shall be subject to the following regulations:

- A. The occupation shall be carried on entirely within the principal structure or an attached or unattached accessory structure provided that the accessory structure is located on the same lot as the principal structure.
- B. No display or advertisement of products or services may be visible from outside the building. Any storage of materials associated with the home occupation shall be within the building.
- C. A sign no larger than two square feet in surface area is permitted. The sign may only be lit with indirect lighting.
- D. No person other than a resident of the dwelling unit may conduct the home occupation. Not more than one non-resident may be employed to perform secretarial, clerical or other assistance.
- E. Not more than 30%, or 600 square feet, whichever is less, of the total floor area of the building wherein the home occupation is being conducted may be devoted to the home occupation.
- F. Each home occupation shall have off-street parking as indicated below, in addition to that required for the dwelling unit.
 - 1. One space for the home occupation and one space for the nonresident employee if applicable.
 - 2. Three additional parking spaces for a physician, dentist, or other licensed medical practitioner.
 - 3. Two additional parking spaces for a barber, beautician or other similar personal service occupations.
- G. The home occupation may not disturb the peace, quiet and dignity of the neighborhood by electrical interferences, dust, noise, smoke, or traffic generated by the use.
- H. There shall be no retail sales of goods except those goods that are prepared or produced on the premises.
- I. There shall be no change in the residential character of the building wherein the home occupation is being conducted.

801.27 INDUSTRIAL ACTIVITIES

All activities and uses permitted within the I-1 and I-2 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 which side effects are deemed injurious to the public health, safety and welfare by the United States Environmental Protection Agency (E.P.A.), the Pennsylvania Department of Environmental Protection

(DEP) and the Pennsylvania Department of Labor and Industry. It shall be the responsibility of the applicant to provide the Zoning Officer with a complete listing of all State and Federal regulations governing the proposed use and written compliance from the governing agencies. All industries are required to supply the Township Emergency Management Agency and the Fire Department with all applicable MSDS sheets, emergency operations and evacuation plans.

801.28 JUNK YARDS AND/OR AUTOMOTIVE WRECKING YARDS

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

- A. Such premises shall at all times be maintained so as not to constitute a nuisance or menace to the health of the community or residents nearby or 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 said vehicle.
- 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 and to facilitate access for firefighting purposes.
- 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 fourteen (14') foot roadway provided for every forty (40) linear feet of junk. The roadway shall be kept open and unobstructed for any 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 solid wall or substantial fence not less than eight (8') feet in height and an evergreen hedge with such evergreens being a minimum height of at least five (5') feet at the time of planting. Any fence or wall shall be no closer than five (5') feet to the property lines.
- 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 8:00 P.M., local time.

801.29 MACHINE SHOPS.

Where the operation abuts a zoning district where residences are a principal permitted use, or where an existing residential dwelling unit is located, a solid wall or substantial, attractive fence not less than eight feet in height shall be constructed and maintained in good condition along such boundary line, or a buffer yard of not less than 50 feet in width must be landscaped, and maintained in good condition. All materials shall be stored within a completely enclosed building and outdoor storage of any kind is prohibited. All operations excluding pickups or deliveries shall be conducted within the enclosed building.

801.30 MINERAL EXTRACTION WITH AN ASPHALT, BATCH OR CONCRETE PLANT)

- A. The use, activity or any aspect of the operation shall be located not less than 1,500 feet from the nearest inhabited residence, place of worship, or any public recreational activity. Furthermore, the setback distance of the use, activity or any aspect of the operation from surface water bodies, creeks, streams, wetlands and floodplains shall comply with the State mandated requirements.
- B. Except for approved access drives (which shall be secured by locked gates, which may only be open during business hours), the premises shall be completely screened to protect public safety with an industrial type gauge fence eight feet in height. Signs shall be conspicuously attached to the fence every 75 feet warning the public of the nature of the operation. A yard area not less than 50 feet in width shall also be maintained with natural vegetative ground cover along all exterior lot lines that are within 300 feet of an area of excavation. This yard shall include an earth berm with a minimum height of six feet and an average of one shade tree for each for each 50 feet of distance along the lot lines. The shade trees shall be planted outside of the required berm and fence. If substantial trees, vegetation or forest exist within the required yard area, then new plantings in those area is not necessary provided that the existing trees, vegetation or forest are well-kept, preserved, maintained and adequately serve the purpose for which the yard was to be created.
- C. The lot and operation thereon shall at all times be maintained so as not to constitute a public nuisance, or adversely impact the public health, safety or welfare. The days and hours of operation, including excavation, blasting and relating trucking, may be limited by the Zoning Hearing Board taking into consideration the characteristics of the neighborhood.
- D. The site shall contain a minimum of two access drives, each of which shall be not less than 24 feet in width, and all of which shall be improved in accordance with the Foster Township Subdivision and Land Development Ordinance, and connect to a public street sufficient in size to accommodate the proposed traffic expected to be generated by the use. Access drives shall be located so as to prevent public safety hazards, dust and noise.

- E. All applications shall include a plan that evidences the measures to be taken by the operator to prevent dust, dirt, stone or other debris from escaping from the facility onto any public property/street, or private property of another.
- F. All applications shall include an estimated life expectancy for the proposed use; a plan for the future productive use of the property once the life of the project has terminated; a proposed cost to reclaim the property and implement the future use; and a financial guarantee for implementation of that use.
- G. All applications shall include the same information, written materials and plans that are to be submitted to the Pennsylvania Department of Environmental Protection, as part of the state permitting process.
- H. An asphalt, batch or concrete plant or processing operations shall constitute an industrial use and shall not be considered an accessory use, but a separate and distinct use that shall require special exception approval when located on the same lot where the mineral extraction is taking place. Furthermore, if an asphalt, batch or concrete plant is proposed on a property in which mineral extraction is not taking place items A through G above shall still apply.

801.31 MORTUARIES AND CREMATORIES

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 not less than six (6') feet in height. Outside lighting shall be directed away from adjacent properties.

801.32 MOTELS AND HOTELS

A motel or hotel shall require a lot area, of not less than two (2) acres and a lot width of not less than two hundred (200') feet and shall contain at least 10 sleeping rooms not less than 1,000 square feet per sleeping room. The remaining floor area may be used for such uses as a restaurant, retail store, game room, ballroom and banquet room provided that these uses are primarily designed to serve the guests of the motel or hotel. All buildings and structures shall be not less than 60 feet from a front yard line, and not less than 35 feet from the side and rear lot lines. All areas not used for access, parking circulation, buildings and services shall be completely and permanently landscaped and the entire site maintained in good condition.

801.33 NO IMPACT HOME-BASED BUSINESS

A No Impact Home-Based Business, as defined in Article 2 of this Ordinance, shall be permitted by right in all Residential Zoning Districts and zoning districts in which residences are permitted as a principal permitted use, except that such permission shall not supersede any deed restriction, covenant, or agreement restricting the use of the land, nor any master deed, bylaw, or other document applicable to common interest ownership community. The following standards and criteria shall apply to a No Impact Home-Based

Business.

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

801.34 NONPROFIT SOCIAL HALLS AND CLUBS

Buildings utilized for such purposes shall not be less than forty (40) feet from any property line. Where such use abuts any R District, the following requirements shall apply to the side and rear yard property boundaries:

- A. Construction of a solid wall or solid opaque fencing eight (8) feet in height, designed to conceal and screen the facility from adjoining properties.
- B. Within a required rear yard or side yard setback, there shall be a landscaped planting strip not less than four (4) feet in depth, planted with shrubs or trees which are not less than three (3) feet high at the time of planting and which are of a type that may be expected to form a year-round dense screen at least four (4) feet high within three (3) years. The landscaped planting strip shall be maintained in good condition at all times, including the replacement of any shrubs or trees which are damaged, die or otherwise fail to grow.
- C. Outdoor trash dumpsters shall be concealed within an area surrounded by solid opaque fencing not less than six (6) feet in height.

- D. The provision of any outside lighting shall be directed away from adjacent properties.

801.35 OUTDOOR WOOD-FIRED BOILER

An Outdoor Wood-Fired Boiler shall comply with the following standards

- A. A fan or blower attached to the appliance to increase the efficiency of the Outdoor Wood-Fired Boiler.
- B. An outdoor wood-fired boiler shall be located not less than two hundred (200) feet from any property line and not less than forty (40) feet to any principal structure or building located upon the property.
- C. The outdoor wood-fired boiler shall have an orange hang tag that signifies that it meets the EPA's standards for Phase 1 air emission levels of 0.60 pounds of fine particulates per million BTU heat input and qualifies for the EPS's voluntary program.
- D. All outdoor wood-fired boilers shall be installed, operated and maintained in strict conformance with the manufacturer's instructions and the regulations promulgated hereunder. In the event of a conflict, the regulations promulgated within this Section shall apply unless the manufacturer's instructions more restrictive, in which case the manufacturer's instructions shall apply.
- E. The owner of the outdoor wood-fired boiler shall produce the manufacturer's instructions for all devices that do not conform to the requirements of this Section.
- F. All outdoor wood-fired boilers may only be utilized for the sole purpose of furnishing heat to a structure or building and/or providing hot water during the time period of October 1 through May 1; and subject to meeting the requirements of this Section.
- G. No homemade outdoor wood-fired boilers will be allowed.
- H. Only natural clean wood may be burned in outdoor wood-fired boiler. Regardless of the manufacturer's instructions an outdoor wood-fired boiler shall not be used to burn any of the following materials:
- Any material that does not meet the definition of clean wood.
 - Furniture
 - Garbage
 - Tires
 - Lawn clippings or yard waste
 - Wet or soggy wood
 - Material containing plastic
 - Material containing rubber
 - Waste petroleum products
 - Paints and paint thinners
 - Chemicals

- Any hazardous waste
 - Coal
 - Glossy colored paper
 - Construction and demolition debris
 - Plywood
 - Particleboard
 - Salt water driftwood
 - Manure
 - Animal carcasses
 - Asphalt products
- I. All storage of materials to be burnt in the outdoor wood-fired boiler shall be neatly stacked and/or stored under cover and free from insects (termites, ants, etc.) or any type of disease carrying rodents.
- J. Ashes or waste cannot be accumulated in a large area on the property. They may be dispersed on the property as long as no accumulation can be seen (for example: spread in a driveway). Any large accumulation of ashes or waste must be disposed of weekly with the owner's trash.

801.36 PLACES OF WORSHIP:

A minimum lot area of one acre shall be required for the use. Religious instruction and educational rooms may be permitted within the principal building as accessory uses. A minimum lot area of two acres shall be required when the use consists of one or more of the following accessory uses: primary or secondary school; day care center; and a single-family dwelling unit. Where the lot adjoins an existing residential dwelling unit, or is located within a residential zoning district, the parking area shall be screened along the side and rear lot lines with shrubbery or evergreen trees not less than four feet in height at the time of planting. The buffer area shall be kept in good condition and continuously maintained.

801.37 PUBLIC UTILITY FACILITIES

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.

801.38 RECREATIONAL FACILITIES - (OUTDOORS AS A PRINCIPAL USE)

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

- A. No outdoor recreation activity shall be conducted closer than one hundred (100') feet to any property line.
- B. A buffer area, at least fifty (50') feet in depth and planted with trees, shrubs or other landscaping, shall surround the property except for access drives.
- C. Unless superseded by a PennDOT Highway Occupancy Permit or Luzerne County Highway Occupancy Permit, 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.

801.39 RESTAURANTS AND TAVERNS

Unless superseded by a PennDOT Highway Occupancy Permit or Luzerne County Highway Occupancy Permit, 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, as measured from the right-of-way lines, from the intersection of the two abutting streets. Outdoor trash dumpsters shall be concealed within an area surrounded by solid opaque fencing not less than six (6) feet in height. All exterior lighting shall be directed away from adjacent properties and shall utilize cutoff shields or otherwise be designed to conceal the light source from adjoining properties and streets.

801.40 SATELLITE DISH ANTENNA (NONCOMMERCIAL)

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

A. Location on Lot

No satellite dish antenna shall be installed on a portable or moveable device.

B. Number on Lot

Not more than one satellite dish antenna shall be permitted on a zoning lot.

C. Size Limitations

The dimensions of a satellite dish antenna measured from its outermost edges cannot exceed twelve (12) feet in diameter.

D. Roof-Mounted

A roof-mounted satellite dish antenna having a diameter not greater than three (3) feet and installed in accordance with the manufacturer's specifications be shall be exempted from securing zoning approval.

801.41 SELF-STORAGE FACILITY

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

801.42 SEXUALLY ORIENTED BUSINESS

No Sexually Oriented Business, 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 zoning district in which residences are permitted as a principal permitted use.

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.

801.43 **SOLAR ENERGY SYSTEM (MINOR)**

A. MINOR SOLAR ENERGY SYSTEM SHALL MEET THE FOLLOWING CRITERIA:

1. Is fueled solar power.
2. Is located in the power beneficiary's premises.
3. Is intended primarily to offset part or all offset beneficiary's requirements for electricity.
4. Is secondary to the beneficiary's use of the premises for other lawful purpose(s).

B. DESIGN AND SUPPLEMENTAL REQUIREMENTS

1. Solar collection systems shall not be located in the front yard between the principal structure and the public right-of-way, or private street.
2. Shall not be located in the front yard between the principal structure and the public right-of-way or private street.
3. If not located on a rooftop then must meet the minimum setbacks of an accessory building of the zoning district in which it is located.
4. Height: Freestanding Collection systems shall not exceed twenty (20') feet in height.
5. Size: Freestanding Collection systems on residential properties shall not exceed the greater of one-half ($\frac{1}{2}$) the footprint of the principal structure or six hundred (600) square feet, whichever is greater. The size of arrays for non-residential properties shall not exceed one-half ($\frac{1}{2}$) of the footprint of the principal structure except for rooftop systems.
7. Solar Collection Systems are permitted to be located on the roof or the exterior wall of a structure subject to the following:
 - i. Collection systems shall not extend more than twelve (12') feet above the roof line;
 - ii. Collection systems shall not exceed the maximum height permitted in the zoning district in which it is located; and
 - iii. Collection systems located on the roof or attached to a structure shall provide, as part of their permit application a structural certification.
8. Code Compliance: Solar Collection Systems shall comply with all applicable Township building and electrical codes.
9. A property owner who has installed or intends to install a solar collection system shall be responsible for negotiating with other property owners in the vicinity for any necessary solar easement.

C. SITE PLAN REQUIRED

1. Drawing to scale to show the following:

- i. Lot boundary lines and setback lines and easements;
- ii. Names and mailing addresses of adjoining property owners
- iii. Proposed energy system;
- iv. Certification of ownership;
- v. Copy of deed provided with site plan;
- vi Scale and north arrow;

801.44 **SOLAR ENERGY SYSTEM (MAJOR)**

A. PERMIT REQUIREMENT AND APPLICATION.

1. All applications for a Major Solar Energy System, shall be considered a Major Land Development, shall meet the requirements of this Ordinance and the Foster Township Subdivision and Land Development Ordinance (SALDO). All applications and shall be reviewed by the Township Planning Commission and approved by the Supervisors.
2. The permit application or amended permit application shall be accompanied with a processing fee and escrow fee in the amount established by resolution by the Board of Supervisors.
3. Any physical modification to an existing and permitted Solar Energy System that materially alters the equipment shall require a permit modification under this Ordinance. Like-kind replacements shall not require a permit modification.

B. INSTALLATION

1. To the extent applicable, the Solar Energy System shall comply with the Pennsylvania Uniform Construction Code, Act 45 of 1999 as amended and the regulations adopted by the Department of Labor and Industry.
2. The design of the Solar Energy System shall conform to applicable industry standards.
3. Major Solar Energy Systems as defined by this Section shall use public right-of-ways or established utility corridors when reasonable. While a utility corridor may be used for more than one utility of purpose, each utility or use should be negotiated with the landowner as a separate easement, right-of-way, or other agreement between the landowner and any other party and all owners of interest in the property. Nothing in this paragraph is intended to conflict with the right of eminent domain.
4. The construction and installation of Solar Energy Systems may necessitate the importation of fill material which may result in the displacement of native material. The incidental generation of earthen spoils resulting from the construction and/or installment of a Solar Energy System and the removal of said material from the development site shall meet all local and state requirements.

C. REVIEW CRITERIA

Major Energy Systems are classified as a conditional use requiring review by the Township Planning Commission and approval by the Township Board of Supervisors. The following criteria shall apply to the review and approval of Major Energy Systems:

1. A determination that adequate measures have been undertaken by the proponent of the major energy system to reduce the risk of accidents caused by hazardous materials.
2. A determination that the proposed that Major Solar Energy System is essential or desirable to the public convenience and/or not detrimental or injurious to the public health or safety, or to the character of the surrounding neighborhood.
3. A determination that that the proposed Major Solar Energy System will not be reasonably detrimental to the economic welfare of the Township and/or that it will not create excessive public cost for public services by finding that it will be adequately serviced by existing services such as highways, roads, police and fire protection, emergency response, and drainage structures, refuse disposal, water and sewers, or that the applicant shall provide such services or facilities.
4. Consideration of industry standards, available technology, and proposed design technology for solar energy in promulgating conditions of approval.
5. No permit will be issued nor can any construction begin until the applicant has met all the requirements of the Foster Township Subdivision and Land Development Ordinance (SALDO).

D. CERTIFICATION AND COMPLIANCE

1. The Township must be notified of a change in ownership of a Major Energy System or a change in ownership of the property on which the Major Energy System is located.
2. The Township reserves the right to inspect any Major Energy System in order to ensure compliance with the Ordinance. Any cost associated with the inspections shall be paid by the owner/operator of the Major Energy System.
3. The Major Energy System Owner(s) or Operator(s) shall provide the Township Zoning Officer with a copy of the yearly maintenance inspection.

E. DECOMMISSIONING.

1. The owner or operator of a Major Energy System or then owner of the land on which the major energy system is located Owner(s)/Operator(s)/Landowner(s) shall complete decommissioning within 12 months after the end of the useful

life. Upon written request by the Owner(s)/Operator(s)/Landowner(s) and for a good cause shown, the Township may grant a reasonable extension of time. The major energy system will be presumed to be at the end of its useful life. If no electricity or other form of power is generated for a continuous period of 12 months. All decommissioning expenses shall be the responsibility of the Owner(s)/Operator(s)/Landowner(s) of the major energy system

2. Decommissioning shall include the removal of panels, buildings, electrical components, and roads to a depth of sixty (60) inches, as well as any other associated facilities. Any foundation shall be removed to a minimum depth of sixty (60) inches below grade, or to the level of the bedrock if less than sixty (60) inches below grade. Following removal, the location of any remaining foundation shall be identified on a map as such and recorded with the deed to the property with the County Register of Deeds.
3. All access roads to the Major Energy System shall be removed, cleared, and graded by the Owner(s)/Operator(s)/Landowner(s), unless the Landowner(s) requests, in writing, a desire to maintain the access road. The Township will not be assumed to take ownership of any access road unless through official action of the Township Supervisors.
4. The site and any disturbed earth shall be stabilized, graded, and cleared of any debris by the Owner(s)/Operator(s)/Landowner(s) or their assigns. If the site is not to be used for agricultural practices following removal, the site shall be seeded to prevent soil erosion.
5. In addition to the Decommissioning Requirements listed previously, the Major Energy System shall also be subject to the following:
 - a. If the Owner(s)/Operator(s)/Landowner(s) fail to complete decommissioning within the period prescribed above, the Township may designate a contractor to complete decommissioning with the expense thereof to be charged to the violator and/or to become a lien against the premises. The Township shall be authorized to use all means provided in law, including a municipal lien, to recover all costs of decommissioning. If the Major Energy System is not owned by the Landowner(s), a bond must be provided to the Township for the cost of decommissioning the Major Energy System.
 - b. An independent and certified professional engineer shall be retained by the Township to estimate the total cost of decommissioning ("Decommissioning Costs") with no regard to salvage value of the equipment, and the cost of decommissioning net salvage value of the equipment ("Net Decommission Costs"). When determining this amount, the Township may also require an annual escalator or increase based on the Federal Consumer Price Index (or equivalent or its successor). Said estimates shall be submitted to the Township after the

first year of operation and every fifth year thereafter. The engineer's fees shall be paid by the Owner(s)/Operator(s)/Landowner(s).

- c. The Owner(s)/Operator(s)/Landowner(s) shall post and maintain Decommissioning Funds in an amount equal to or greater than Net Decommissioning Costs; provided that at no point shall Decommissioning Funds be less than one hundred percent (100%) of Decommissioning Costs. The Decommissioning Funds shall be posted and maintained with a bonding company or Federal or state chartered lending institution chosen by the Owner(s)/Operator(s)/Landowner(s) posting the financial security. The bonding company or lending institution must be authorized to conduct such business and be approved by the Township.
- d. Decommissioning Funds shall be in the form of a performance bond made out to Foster Township.
- e. A condition of the bond shall be notification by the bond company to the Township Supervisors when the bond is about to expire or be terminated.
- f. Failure to keep the bond in effect while a Major Energy System is in place will be a violation of the zoning approval as a conditional use. If a lapse in the bond occurs, Foster Township may take action up to and including requiring ceasing operation of the Major Energy System until the bond is reposted.
- g. The escrow agent shall release the Decommissioning Funds when the Owner(s)/Operator(s)/Landowner(s) has demonstrated and the Township concurs that decommissioning has been satisfactorily completed, or upon written approval of the Township in order to implement the decommissioning plan.
- h. If the Owner(s)/Operator(s)/Landowner(s) fail to complete decommissioning within the periods addressed previously, then the Township may take such measures as necessary to complete decommissioning. The entry into and submission of evidence of a Participating Landowner agreement to the Township shall constitute agreement and consent of the parties to the agreement, their respective heirs, successors and assigns that the Township may take such action as necessary to implement the decommissioning plan.

F. SETBACKS, RESTRICTIONS AND EASEMENTS

A Major Solar Energy System:

- 1. Shall be a minimum of one thousand (1,000') feet from any zoning district boundary line and property line of existing residential or public use.

2. Shall not be located within five hundred (500') feet of a public or private road right-of-way, nor within one hundred (100') feet from all other property lines.
3. A property owner who has installed or intends to install a solar collection system shall be responsible for negotiating with other property owners in the vicinity for any necessary solar easement and shall record the easement with the Luzerne County Recorder of Deeds Office
4. Shall provide a fifty (50') foot planted buffer/screen along all property lines.
5. Shall conceal solar collector's supporting structures fixtures and piping where applicable.

G. SITE PLAN DRAWING

A Site Plan Drawing shall be provided as part of the conditional use application that is drawn to scale and dimensioned, displaying the following information:

1. Existing property features to include property lines, physical dimensions of the property, total parcel size, land use, zoning district, contours, set back lines, right-of-way, public and utility easements, public roads, access roads (including width), sidewalks, nonmotorized pathways, large trees and all buildings. The site plan must also include the adjoining properties as well as the location of all structures and utilities within three hundred (300') feet of the property.
2. Location, size, and height of all proposed Major Solar Energy Systems, buildings, structures, ancillary equipment, underground utilities and their depth, security fencing, access roads (including width, composition, and maintenance plans), electrical sub-stations, and other above ground structures and utilities associated with the proposed Major Solar Energy System.
3. Additional details and/or information as required for a conditional use application as set forth in the Foster Township Zoning Ordinance or as requested by the Township Planning Commission or Board of Supervisors.

H. SITE PLAN DOCUMENTATION:

The following documentation shall be included with the site plan:

1. The contact information for the Owner(s) and Operator(s) of the Major Solar Energy System as well as contact information for all property on which the Major Solar Energy System is located.
2. A copy of the lease, or recorded document, with the landowner(s) if the applicant does not own the land for the proposed Major Solar Energy System. A statement from the landowner(s) of the leased site that he/she

will abide by all applicable terms and conditions of the use permit, if approved.

3. Identification and location of the properties on which the proposed Major Solar Energy System will be located.
4. The proposed number, representative types and height of each component of the system to be constructed; including their manufacturer and model, product specifications including total rated capacity, and a description of any ancillary facilities.
5. Engineering data where applicable concerning construction of the Major Solar Energy System and its components, which may include but not limited to, soil boring data.
6. A certified registered engineer shall certify that the Major Solar Energy System meets or exceeds the manufacturer's construction and installation standards.
7. Anticipated construction schedule.
8. A copy of the maintenance and operation plan, including anticipated regular and unscheduled maintenance. Additionally, a description of the procedures that will be used to conduct maintenance, if applicable.
9. Documented compliance with applicable local, state and national regulations including, but not limited to, all applicable safety, construction, environmental, electrical and communications requirements.
10. Proof of applicant's liability insurance.
11. Evidence that the utility company has been informed of the customer's intent to install an interconnected, customer owned generator and that such connection has been approved. Off-grid systems shall be exempt from this requirement.
12. Other relevant information as required by the Foster Township Subdivision and Land Development Ordinance to ensure compliance with the requirements of this Ordinance.
13. Following the completion of construction, the applicant shall certify that all construction is completed pursuant to the conditional approval. The Applicant shall provide an as-built plan as required by the Foster Township Subdivision and Land Development Ordinance.
14. A written description of the anticipated life of the Major Solar Energy System; estimated cost of decommissioning; the method of ensuring that funds will be available for decommissioning and site restoration; and

removal and restoration procedures and schedules that will be employed if the Major Solar Energy System becomes inoperative or non-functional.

15. The applicant shall submit a decommissioning plan that will be carried out at the end of the Major Solar Energy System's useful life, and shall describe any agreement with the landowner(s) regarding equipment removal upon termination of the lease.
16. The Township reserves the right to review all maintenance plans and bonds under this Ordinance to ensure that all conditions of the permit are being followed.
17. Signature of the Applicant.
18. In addition to the Site Plan Requirements listed previously, the Major Solar Energy System shall be subject to the following:
 - a. A site grading, erosion control and stormwater drainage plan shall be submitted to the Luzerne Conservation District and Pennsylvania Department of Environmental Protection. These plans shall also be reviewed by the Township's engineering firm. The cost of this review will be the responsibility of the applicant.
 - b. A statement indicating what hazardous materials will be used and stored on the site.
 - c. A study assessing any potential impacts on the natural environment including, but not limited to, assessing the potential impact on endangered species, eagles, birds and/or wildlife, wetlands and fragile ecosystems. The study shall conform to state and federal wildlife agency recommendations based on local conditions.

I. USE OF PUBLIC ROADS

1. The Applicant shall identify all state and local public roads to be used within the Township to transfer equipment and parts for construction, operation or maintenance of the Major Solar Energy System.
2. The Township's engineer or a qualified third party engineer hired by the Township and paid for by the Applicant, shall document road conditions prior to construction if applicable. The engineer shall document road conditions again thirty (30) days after construction is complete or as weather permits.
3. The Township may require the Applicant to bond the road(s) in compliance with state regulations.
4. Any road damage caused by the applicant or its contractors shall be promptly repaired at the Applicant's expense.

5. The Applicant shall demonstrate that it has appropriate financial assurance to ensure the prompt repair of damaged roads to the satisfaction of the Township.

J. ACCESS DRIVEWAY

Each Major Energy System shall require the construction of a private road to offer an adequate means by which the Township may readily access the site in the event of an emergency.

K. SAFETY REQUIREMENTS

1. If the Major Energy System is connected to a public utility system for net metering purposes, it shall meet the requirements for interconnection and operation set forth in the public utility's then – current service regulations applicable to solar power generation facilities, and the connection shall be inspected by the appropriate public utility.
2. Security measures need to be in place to prevent unauthorized trespass and access. All access doors to electrical equipment shall be locked and/or fenced as appropriate, to prevent entry by non-authorized person(s).
3. All spent lubricants, cooling fluids, and any other hazardous materials shall be properly and safely removed in a timely manner, and disposed of in accordance with current DEP regulations.
4. Each Major Energy System shall have a minimum one sign, not to exceed two (2) square feet in area, posted on the security fence if applicable. The sign shall contain at least the following:
 - i. Warning high voltage
 - ii. Manufacturer and owner/operator's name
 - iii. Emergency contact numbers (list more than one number)
5. To the extent applicable, a Major Energy System shall comply with the Pennsylvania Uniform Construction Code 34 PA. Code

L. NATURAL RESOURCES AND HISTORIC SITES.

No Major Energy System shall be located less than one thousand (1000') feet from any Important Bird Area or migration corridor, National Wetland Inventory Wetland, Historic Site or lake, dam, ponds or public water supply sources.

M. MINIMUM LOT SIZE

A Major Energy Solar System shall require a minimum lot size of not less than 30 acres.

N. PARKING

If the Solar Energy System site is fully automated, adequate parking shall be required for maintenance workers. If the site is not automated, the number of required parking spaces shall be equal to the number of people on the largest shift plus overflow spaces equal to twenty (20%) percent of the required spaces based on the number of employees, but not less than two (2) parking spaces.

O LICENSES

Other Regulations. The Applicant shall demonstrate that the required permits and licenses from the Federal Energy Regulatory Commission, the Pennsylvania Department of Environmental Protection, the Pennsylvania Public Utility Commission, and other agencies have been obtained. The Applicant shall also document compliance with all applicable state and federal regulations by providing to the Township copies of all required documents, studies, and responses (e.g., National Environmental Policy Act, Pennsylvania Natural Diversity Inventory submission, Pennsylvania Historical and Museum Commission compliance, U.S. Fish and Wildlife Service, the Department of Conservation and Natural Resources and the PA Game Commission).

P. LIABILITY INSURANCE

The Applicant for a Major Energy System shall submit a Certificate of Insurance evidencing general liability coverage in the minimum amount of one million (\$1,000,000.00) dollars per occurrence and property damage coverage in the minimum amount of one million (\$1,000,000.00) dollars per occurrence covering the Solar Energy System. The Applicant shall provide the Township with proof of annual renewal prior to expiration.

Q. LANDSCAPING.

Existing vegetation on and around the site shall be preserved to the greatest extent possible without restricting Solar Access.

R. SOIL EROSION AND SEDIMENTATION CONTROL; STORMWATER MANAGEMENT

If applicable, all earth disturbances shall comply with the soil erosion and sedimentation control requirements of the Luzerne Conservation District and the Pennsylvania Department of Environmental Protection; and no approval shall be granted under this Ordinance until Applicant provides a copy of the approved soil erosion and sedimentation control plan and any required permits. A stormwater management plan and stormwater management facilities shall be provided for all major energy systems in accord with the Township's current Stormwater Management Requirements.

S. FIRE CONTROL/LOCAL EMERGENCY SERVICES

1. The Applicant shall provide a project summary and fire control

site plan including details about any fire suppression system proposed for any Major Energy System or structure. The plan shall be provided to the applicable fire company for review and comment.

2. Upon request, the Applicant shall cooperate with emergency services to develop and coordinate implementation of an emergency response plan for the Major Energy System.

T. SOLAR ACCESS

A property owner who has installed or intends to install a solar collection system shall be responsible for negotiating with other property owners in the vicinity for any necessary solar easement and shall record the easement with the Office of Luzerne County Recorder of Deeds.

U. COMPATIBILITY WITH OTHER ORDINANCE REQUIREMENTS.

Approvals issued pursuant to this Ordinance do not relieve the Applicant of the responsibility to secure required permits or approvals for activities regulated by any other applicable code, rule, act or ordinance.

801.45 SCHOOL

A school, whether public or private, primary or secondary, shall have a minimum lot size of three acres, and any outdoor recreational or play area shall be located not less than 150 feet from any residential lot line, or existing residential dwelling unit.

801.46 SOLID WASTE LANDFILL (INCLUDING SOLID WASTE TRANSFER FACILITY AND SOLID WASTE-TO-ENERGY FACILITY)

All solid waste storage, disposal, incineration or processing shall meet the following requirements:

- A. The use, activity or any aspect of the operation shall be located not less than 250 feet from any street right-of-way, lot line, 100 year floodplain, edge of a surface water body, creek, stream or wetland; and not less than 1,500 feet from any residential zoning district, or lot line where a residential dwelling unit, place of worship, or public recreational activity is located.
- B. Burning and incineration is prohibited, except for an approved waste to energy facility.
- C. The site shall contain a minimum of three access drives, each of which shall be not less than 24 feet in width, and all of which shall be improved in accordance with the Foster Township Subdivision and Land Development Ordinance, and connect to a public street sufficient in size to accommodate the proposed traffic expected to be generated by the use. One of the access drives shall be restricted to use by emergency vehicles only, and shall be clearly marked and identified as such. The application shall also be accompanied by a plan of the site that includes the location

of access drives and proposed structures, and an emergency response plan to address potential safety concerns associated with the use.

- D. The lot shall at all times be maintained so as not to constitute a private or public nuisance, or adversely impact the public health, safety or welfare.
- E. A solid waste facility shall have a maximum lot size of 25 acres, whether developed initially or cumulatively, with a maximum total capacity to treat or dispose of waste being 500 tons per day.
- F. Except for the required access drives (which shall be secured by locked gates, which may only be open during business hours) the premises shall be completely screened by a wall or fence not less than eight feet in height and a planting strip not less than five feet in depth, with shrubbery, plants or evergreen trees which are a minimum of six feet in height at the time of planting. This area must then be suitably landscaped and maintained. In addition, an attendant shall be present during all periods of operation or dumping to ensure that:
 - (1) only authorized waste is accepted;
 - (2) the access drives remain unobstructed; and
 - (3) litter, garbage and rubbish is collected from the site and it's surrounding on a regular daily basis prior to the closing of business on each day.
- G. The days and hours of operation shall be limited to Monday through Friday from 7 a.m. to 5 p.m. and Saturday from 7 a.m. to 4:00 p.m. The facility shall not conduct any approved operations at any other times and days.
- H. The operator shall take all necessary precautions to prevent litter, garbage and rubbish from scattering off site, and shall regularly monitor the site and its surroundings collecting litter, garbage and other rubbish that may have escaped from the facility or trucks.
- I. Dangerous materials such as radioactive, hazardous or infectious waste may not be stored, processed, disposed of, or incinerated on site.
- J. All loading and unloading of solid waste shall occur within an enclosed building, and over an impervious surface drain to a holding tank that is then adequately treated. All solid waste processing and storage shall occur within an enclosed building or enclosed container.
- K. All applications shall include an estimated life expectancy for the proposed use; a plan for the future productive use of the property once the life of the project has terminated; a proposed cost to reclaim the property and implement the future use; and a financial guarantee for implementation of that use.
- L. All applications shall include the same information, written materials and plans that are to be submitted to the Pennsylvania Department of Environmental Protection, as part of the state permitting process.

The following requirements shall apply to a proposed Standalone Non-Commercial Windmill.

A. The applicant shall be required to submit the following information:

1. The applicant and landowner's name and contact information. Please note that the Conditional Use Application must be signed by both the applicant and the landowner, regardless of any equitable interest or other documentation held by the applicant. Failure to provide an application bearing both signatures will be deemed to be an incomplete submission and shall represent a basis for denying the application.
2. The tax map numbers, existing use and acreage of the site parcel.
3. A copy of the deed to the property.

B. DESIGN AND INSTALLATION

1. Design Safety Certification

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

2. All components of a Standalone Non-Commercial Windmill shall be designed and constructed to be in compliance with pertinent provisions of the Pennsylvania Uniform Construction Code. The owner of a small Standalone Non-Commercial Windmill shall have all components the Facility inspected annually, with each inspection not to exceed a twelve (12) month period, for structural and operational integrity by a licensed professional engineer, and shall submit a copy of the inspection report to the Township.

3. Controls and Brakes

A Standalone Non-Commercial Windmill shall be equipped with a redundant braking system. This includes both aerodynamic overspeed controls (including variable pitch, tip, and other similar systems) and mechanical brakes. Mechanical brakes shall be operated in a fail-safe mode. Stall regulation shall not be considered a sufficient braking system for overspeed protection.

4. Rotor Blades

The minimum distance between the ground and any part of the rotor blade system shall be thirty (30) feet.

5. Electrical Components

All electrical components of a Standalone Non-Commercial Windmill shall conform to the Pennsylvania Uniform Construction Code.

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

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

The applicant shall demonstrate a Standalone Non-Commercial Windmill shall not cause disruption or loss of radio, telephone, television or similar signals, and shall be required to mitigate any harm caused by the operation of the system.

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

Anchor points for any guy wires for a Standalone Non-Commercial Windmill shall be located within the property that the system is located on and not on or across any above ground electric transmission or distribution lines. The point of attachment for the guy wires shall be enclosed by a fence six feet high or sheathed in bright orange or yellow covering eight (8) feet above the ground.

B. VISUAL APPEARANCE

1. A visual analysis of a Standalone Non-Commercial Windmill as intended to be installed shall be provided with conditional use. The visual analysis shall include a computerized photographic simulation, demonstrating the visual impacts from nearby strategic vantage points selected by the Zoning Hearing Board.
2. Exterior lighting on any structure associated with the system shall not be allowed except that which is specifically required by the Federal Aviation Administration.
3. A Standalone Non-Commercial Windmill's tower and blades shall be painted in a non-reflective, light gray or light blue hue, which blends with

sky and clouds.

4. A Standalone Non-Commercial Windmill shall be designed and located in such a manner to minimize adverse visual impacts from public viewing areas (e.g., public parks, roads, trails). To the greatest extent feasible, the system:
 - shall not project above the top of ridgelines.
 - shall be screened to the maximum extent feasible by natural vegetation or other means to minimize potentially significant adverse visual impacts on neighboring residential areas.

C. LOT SIZE, SETBACK AND HEIGHT REQUIREMENTS:

1. A Standalone Non-Commercial Windmill shall not exceed a maximum height of eighty (80) feet and shall be located on a lot with a minimum size of not less than ten (10) acres.
2. Setback requirements. A small Standalone Non-Commercial Windmill shall not be located closer to a property line than two and a half (2.5) times the turbine height as measured from center point of the base of the tower.
3. Only one Standalone Non-Commercial Windmill per legal lot shall be allowed.

D. CLIMB PREVENTION/LOCKS

1. Towers shall be constructed to provide one of the following means of access control or other appropriate method of access:
 - Tower-climbing apparatus located no closer than 15 feet from the ground.
 - A locked anti-climb device installed on the tower.
2. A locked, protective fence at least six feet in height shall enclose the tower and electrical equipment to prevent entry by non-authorized persons.

E. NOISE AND SHADOW FLICKER

1. Audible sound from a Standalone Non-Commercial Windmill shall not exceed 50 dBA, measured at all points of the site's property line. Methods for measuring and reporting acoustic emissions from Wind Turbines and the Wind Energy Facility shall be equal to or exceed the minimum standards for precision described in AWEA Standard 2.1 - 1989 titled Procedures for the Measurement and Reporting of Acoustic Emissions from Wind Turbine Generation Systems Volume I: First Tier.

2. Reasonable efforts shall be made to preclude shadow flicker to any off-site building not owned by the applicant. The applicant shall provide an assessment of potential buildings that that could be affected.

F. ABANDONMENT

A Standalone Non-Commercial Windmill which is not used for twelve (12) successive months shall be deemed abandoned and shall be dismantled and removed from the property at the expense of the property owner.

801.48 TRUCKING FACILITIES

The minimum lot size shall not be less than four acres. Access drives shall be sufficient in width to accommodate the use, but in no event exceed 25 feet in width. Access drives must connect to a public street. Where the operation abuts a zoning district where residences are a principal permitted use, or where an existing residential dwelling unit is located, a solid wall or substantial, attractive fence not less than eight feet in height shall be constructed and maintained in good condition along such boundary line, and a buffer yard of not less than 300 feet in width must be landscaped, and maintained in good condition. No parking, loading, idling, storage of any kind, or trucking use shall be allowed within the buffer yard. All truck idling in excess of fifteen (15) minutes shall be prohibited.

801.49 WAREHOUSE AND DISTRIBUTION FACILITIES

All materials shall be stored within a completely enclosed building and outdoor storage of any kind is prohibited. Access drives shall be sufficient in width to accommodate the use, but in no event shall any access drive exceed 25 feet in width. No activities including off-street parking shall be allowed within 150 feet of a property line abutting a district having residences as a principal permitted use. All truck idling in excess of fifteen (15) minutes shall be prohibited.

801.50 WIND ENERGY FACILITIES

A. INFORMATION TO BE SUBMITTED

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

1. The applicant and landowner's name and contact information.
2. The tax map numbers, existing use and acreage of the site parcels or which it is to be located.
3. A narrative describing the proposed Wind Energy Facility, including an overview of the project; the project location; the generating capacity of the Wind Energy Facility; the number, representative types and height of all Wind Turbines to be constructed, including their generating capacity, dimensions and respective manufacturers, and a description of ancillary facilities.
4. A site plan sealed by a professional land surveyor at a scale not greater than one

(1") inch equals one hundred (100') feet which includes but may not be limited to identification of the properties on which the proposed Wind Energy Facility will be located with the name and mailing address of the owners of record, the properties adjacent to where the Wind Energy Facility will be located with the name and mailing address of the owners of record, the proposed location of each wind turbine within the Wind Energy Facility, property lines, setback lines, access roads, substations, electrical cabling from each wind turbine within the Wind Energy Facility to the substations, ancillary equipment, buildings, and structures, including permanent meteorological towers.

5. A survey drawing at an appropriate and legible scale showing the proposed location of the wind energy facility (including access roads) as it relates to the boundaries of the parcel, adjacent ownerships and existing residences, schools, churches, hospitals, libraries, federal, state, county or local parks, and recognized historic or heritage sites within a distance of 2,000 feet or less from any property boundary.
6. As applicable, copies of all proposed leases required to be secured by the applicant, shall be provided, if the applicant is not the sole owner of the parcel or parcels on which the Wind Energy Facility is proposed to be constructed. Boundaries of said leases shall be clearly illustrated upon the site plan.
7. Standard drawings of proposed wind turbine structures, including the tower, base and footings.
8. Documentation that all proposed wind turbines conform to applicable industry standards, including compliance with the Pennsylvania Uniform Construction Code (UCC), and the regulations adopted by the Department of Labor and Industry. All wiring shall comply with the applicable version of the National Electric Code (NEC). The design of the Wind Energy Facility shall conform to applicable industry standards, including those of the American National Standards Institute.
9. The Applicant shall submit certificates of design compliance obtained by the equipment manufacturers from Underwriters Laboratories, Det Norske Veritas, Germanischer Lloyd Wind Energies, or other similar certifying organizations certified by an engineer registered in the Commonwealth of Pennsylvania.
10. A completed Environmental Impact Statement, otherwise required for a Conditional Use, under Section 706 of this Ordinance shall be provided.
11. The applicant shall provide three dimensional graphic information that accurately portrays the visual impact of the proposed wind farm and each individual wind turbine within that wind farm from various vantage points selected by the Board of Supervisors, such as, but not limited to residential developments, roads and recreation areas. This graphic information shall be provided in the form of photographs or computer-generated images with the wind turbines superimposed, as may be required by the Board of Supervisors. The Board of Supervisors shall also require the applicant to conduct a balloon test to confirm the visual impact.

B. APPROVAL STANDARDS

A Wind Energy Facility shall in addition to all other applicable criteria and requirements of this Ordinance comply with the following:

1. The minimum distance between the ground and any part of the rotor blade system shall be one hundred (100') feet.
2. To limit unauthorized access, a fence eight feet high with a locking portal shall be placed around the base of the tower of a wind turbine. Also, all access doors to wind turbines and electrical equipment shall be locked prevent entry by non-authorized persons. A sign shall be posted on the entry area of the fence around each Wind Turbine or group of towers and any building, containing emergency contact information, including a telephone number with 24 hour, 7 days a week coverage.
3. A clearly visible warning sign concerning voltage must be placed at the base of all pad-mounted transformers and substations. Visible, reflective, color objects, such as flags, reflectors, or tape shall be placed on the anchor points of guy wires and along the guy wires up to a height of 10 feet from the ground.
4. Wind turbines shall not be climbable up to 15 feet above the average grade of the ground surface. Tower-climbing apparatus shall be located no closer than 15 feet from the ground and a locked anti-climb device shall be installed on the tower.
5. No signs or lights shall be mounted on any wind turbine except as may be required by this Ordinance, the Federal Aviation Administration, or other governmental agency which has jurisdiction. No wind turbine shall be artificially lighted, except as required by the Federal Aviation Administration or for security purposes approved as part of the zoning permit. No approved security light source shall be exposed to the eye except those covered by globes or diffusers so that the lights are fully shielded to project the light below the horizontal plane of the lowest point of the fixture. Other lighting shall be indirect or surrounded by a shade to hide visibility of the light source. No direct or sky-reflected glare, whether from overhead lighting or floodlights shall be permitted. The applicant shall provide a copy of the response to Notice of Proposed Construction or Alteration forms submitted to the FAA and PA DOT Bureau of Aviation; and, the Wind Energy Facility and support structures shall comply with all Federal Aviation Administration (FAA) and the Pennsylvania Department of Transportation (PA DOT) requirements.
6. All wind turbines shall have an automatic braking, governing or feathering system to prevent uncontrolled rotation, overspeeding and excessive pressure on the tower structure, rotor blades and turbine components. Mechanical brakes shall be operated in a fail-safe mode. Stall regulation shall not be considered a sufficient braking system for overspeed protection.
7. All power transmission lines from a wind turbine to on-site substations shall be underground.

8. The applicant shall submit a certificate of insurance evidencing general liability coverage in the minimum amount of one million (\$1,000,000.00) dollars per occurrence and property damage coverage in the minimum amount of one million (\$1,000,000.00) dollars per occurrence covering the Wind Energy Facility and all its facilities. The applicant shall provide the Township with proof of annual renewal prior to expiration.

C. SITING AND INSTALLATION:

A Wind Energy Facility shall:

1. Combine transmission lines and points of connection to local distribution lines.
2. Connect the facility to existing substations, or if new substations are needed, minimize the number of new substations.
3. All wiring between wind turbines and the wind energy facility substation shall be underground.
4. The wind power generation facility, if interconnected to a utility system, shall meet the requirements for interconnection and operation as set forth in the electric utility's then current service regulations applicable to wind power generation facilities and shall provide evidence of a signed interconnection agreement, or letter of intent, with the interconnecting utility company.

D. LAND AREA REQUIREMENTS AND SETBACKS:

1. A Wind Energy Facility shall require a minimum lot size of not less than 50 acres, with a minimum lot width of 660 feet and a minimum lot depth of 660 feet.
2. If the parcel on which the Wind Energy Facility is located is a separate and distinct parcel, no wind turbine shall be located closer to any property line than 1,500 feet as measured from the center of the foundation of a Wind Turbine. The setback for equipment containers, other accessory structures, and any guy wire anchors shall be a minimum of 500 feet from any property line.
3. If the land on which a Wind Energy Facility is leased, or is used by license or easement, no wind turbine shall be located closer to any line of lease, license or easement than 1,500 feet as measured from the center of the foundation of a Wind Turbine. The setback distance for equipment containers, other accessory structures, and guy wire anchors shall be a minimum of 500 feet from the line of lease, license or easement. If the land to construct a Wind Energy Facility is to be leased, a subdivision plan must be submitted to and approved by the Township creating the new parcel to be leased prior to granting approval.
4. No wind turbine within a Wind Energy Facility shall be located less than 1,500 feet to any public road as measured from the center of the foundation of a Wind Turbine to the outer edge the public right-of-way.

5. Each wind turbine shall be set back from the nearest above-ground public electric power line or telephone line a distance no less than 1.1 times its total height, as measured from the center of the foundation of a Wind Turbine to an existing power line or telephone line.

E. NUISANCE ISSUES:

1. All wind turbines shall be located so that the level of noise produced by wind turbine operation shall not exceed 55 dBA, measured at all points of the site's property line. Methods for measuring and reporting acoustic emissions from Wind Turbines and the Wind Energy Facility shall be equal to or exceed the minimum standards for precision described in AWEA Standard 2.1 - 1989 titled Procedures for the Measurement and Reporting of Acoustic Emissions from Wind Turbine Generation Systems Volume I: First Tier.
2. The applicant shall document that the radio, television, telephone or reception of similar signals from nearby properties will not be disturbed or diminished by the installation of any wind turbine.
3. No vibration associated with the operation of a wind turbine shall be permitted which is detectable without instruments at or beyond the property line; and no use shall generate any vibration which is capable of causing damage to buildings, structures, equipment alignment, or structural soundness.
4. The applicant shall make reasonable efforts in siting proposed locations of wind turbines to minimize shadow flicker to any off-site Building.
5. The Applicant shall provide to the Board of Supervisors a written plan regarding how complaints about noise, communications interference and vibration will be addressed by the operator of a wind turbine a plan.

F. ENVIRONMENTAL AND VISUAL:

1. No wind turbine shall be located less than 1,000 feet from any important bird area or migration corridor, National Wetland Inventory Wetland, Historic Site or lake, dam, stream, creek, ponds or public water supply sources or waterways. These areas shall be defined or designated by the Pennsylvania Department of Environmental Protection and/or as depicted on U.S.G.S. mapping.
2. Wind Energy Facilities shall not be used for displaying any advertising except for reasonable identification of the manufacturer or operator of the wind energy facility.
3. The design of the wind turbines buildings and related structures shall, to the extent reasonably possible, use materials, colors, textures, screening and landscaping that will blend the facility into the natural setting and existing environment.
4. Where wind characteristics permit, wind turbines shall be set back from the tops of

visually prominent ridgelines.

5. The maximum Turbine Height, as so defined in this Ordinance, shall not exceed 450 feet.
6. Wind Turbines shall be designed and located to minimize adverse visual impacts from neighboring residential areas to the greatest extent feasible.
7. Wind Turbines shall be designed to avoid, to the extent practicable, the creation of artificial habitat for raptors or raptor prey, such as a) electrical equipment boxes on or near the ground that can provide shelter and warmth, b) horizontal perching opportunities on the towers or related structures or c) soil where weeds can accumulate.
8. A Wind Energy Facility shall provide conclusive documentation that the location and operation of the proposed facility will not adversely affect the wild life habitat, including but not limited to bats and birds of the region and associated migration routes. Comments from any State and/or Federal Agency having a jurisdictional review or stewardship over the protection of wildlife shall be required.

G. TRAFFIC

1. Access to a Wind Energy Facility shall be provided by means of a public street or easement to a public street. All access easements shall be a minimum of 25 feet in width and shall be improved to a width of not less than 12 feet with an improved, durable, dust-free, all weather surface. No access easement shall exceed a grade of 15% unless it can be proven to the Township Engineer that an unsafe situation is not being proposed, the road surface can be properly maintained by the applicant and emergency vehicles can negotiate the excessive slopes.
2. The Applicant shall identify all state, county and Township roads to be used within Foster Township intended for use to transport equipment and parts for construction, operation or maintenance of the Wind Energy Facility.
3. The applicant is responsible for remediation of damaged roads upon completion of the installation or maintenance of a Wind Energy Facility. A bond, letter of credit or other financial guarantee shall be posted by the applicant in an amount, determined by the Township Engineer to be fair, reasonable and sufficient to compensate the Township for any damage to Township roads.
4. The Township shall hire a licensed professional engineer to document the condition of Township roads prior to the start of construction. The engineer shall document the road conditions again within thirty (30) days from the completion of construction or as weather permits. Completion of construction shall be deemed to be the date on which final approval land development approval is granted by the Board of Supervisors. The applicant shall be responsible to reimburse the Township for the subject engineering fees.

5. If the wind farm site is fully automated, adequate parking shall be required for maintenance workers. If the site is not automated, the number of required parking spaces shall be equal to the number of people on the largest shift plus overflow spaces equal to 20 percent of the required spaces based on the employees but not less than two.

H. DECOMMISSIONING AND RESTORATION REQUIREMENTS

The owner or operator of a Wind Energy Facility or the landowner shall complete decommissioning within twelve (12) months after the end of the useful life of a Wind Energy Facility. Each wind turbine will be presumed to be at the end of its useful life if no electricity is generated for a continuous period of twelve (12) months. All decommissioning expenses shall be the responsibility of the owner, operator or land owner and shall be so identified in writing as part of the approval process for any a Wind Energy Facility. Decommissioning shall include the removal of each wind turbine, buildings, electrical components, and roads to a depth of sixty (60) inches, as well as any other associated facilities. Any foundation shall be removed to a minimum depth of sixty (60) inches below grade, or to the level of the bedrock if less than sixty (60) inches below grade. Following removal, the location of any remaining wind turbine foundation shall be identified on a map as such and recorded with the deed to the property with the County Register of Deeds. All access roads to the wind turbine shall be removed, cleared, and graded by the Owner, Operator, or Landowner unless the landowner requests, in writing, a desire to maintain the access road. The Township will not be assumed to take ownership of any access road unless through official action of the Township Supervisors. The site and any disturbed earth shall be stabilized, graded, and cleared of any debris by the owner, operator or landowner. An independent and certified professional engineer shall be retained by the Township to estimate the total cost of decommissioning ("Decommissioning Costs") with no regard to salvage value of the equipment, and the cost of decommissioning net salvage value of the equipment ("Net Decommission Costs"). When determining this amount, the Township may also require an annual escalator or increase based on the Federal Consumer Price Index (or equivalent or its successor). Said estimates shall be submitted to the Township Zoning Officer after the first year of operation and every fifth year thereafter. The owner or operator shall post and maintain Decommissioning Funds in an amount equal to or greater than Net Decommissioning Costs; provided that at no point shall Decommissioning Funds be less than one hundred percent (100%) of Decommissioning Costs. The Decommissioning Funds shall be posted and maintained with a bonding company or Federal or state chartered lending institution chosen by the owner or operator posting the financial security. The bonding company or lending institution must be authorized to conduct such business and be approved by the Township.

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 **NONCONFORMITY – TYPES:**

For the purposes of this Ordinance, nonconformities shall be defined and classified by types, as follows:

902.1 **Nonconforming Use:**

"Nonconforming use" means a use, whether of land or a structure, which does not comply with the applicable use provisions in this Zoning Ordinance or in an amendment hereafter enacted, where such use was lawfully in existence prior to the enactment of this Ordinance or such amendment.

902.2 **Nonconforming Structure:**

"Nonconforming structure" means a structure or part of a structure manifestly not designed to comply with the applicable use provisions in this Zoning Ordinance or in an amendment hereafter enacted, where such structure lawfully existed prior to the enactment of this Ordinance or such amendment. Nonconforming structures shall include, but are not limited to, nonconforming signs.

902.3 **Bulk Nonconformity:**

"Bulk nonconformity" refers to the bulk of a structure which does not comply with the applicable size, height or other bulk provisions in this Zoning Ordinance or in an amendment hereafter enacted, where such structure lawfully existed in compliance with such provisions prior to the enactment of this ordinance or such amendment.

902.4 **Area Nonconformity:**

"Area nonconformity" refers to that aspect of a structure or use on a zoning lot which is not in compliance with the applicable yard, coverage or other area provisions in this Zoning Ordinance or in an amendment hereafter enacted, where such structure or use lawfully existed in compliance with such requirements prior to the enactment of this Ordinance or such amendment.

902.5 Nonconforming Lot

“Nonconforming Lot” means a lot of record legally existing as of the date on which this Ordinance was adopted or amended, which does not conform to the applicable area, frontage, width, or depth requirements established by this Ordinance for the Zoning District in which it is located.

SECTION 903 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.

SECTION 904 CONTINUATION

Nonconforming uses, nonconforming structures, bulk nonconformities and area nonconformities may be continued except as otherwise set forth in this Article, but no nonconforming use or structure shall be enlarged, reconstructed, structurally altered or changed except as permitted by the provisions of this Article.

SECTION 905 REGISTRATION OF NONCONFORMING USES AND STRUCTURES

The owner or occupant of the premises occupied by a nonconforming use or structure may apply for a Certificate of Nonconformity from the Zoning Officer. The owner or occupant shall bear the sole responsibility to provide required documentation to substantiate the issuance of a Certificate of Nonconformity. The Zoning Officer may issue a Certificate of Nonconformity where he finds that a use or structure, although not in compliance with the requirements presently applicable thereto, is a nonconforming use or structure.

SECTION 906 CHANGES OF NONCONFORMING USES AND STRUCTURES

Nonconforming uses and structures shall be changed only in accordance with the following subsections:

906.1

A nonconforming use or structure shall not be extended to displace a conforming use or structure.

906.2

Structures, buildings or uses, either main or accessory, shall not be combined for the purpose of extending a nonconforming use or creating a different nonconforming use.

906.3

When authorized by the Zoning Hearing Board as a special exception, a nonconforming use may be changed to another nonconforming use if the Board finds that all of the following-standards are met:

- a. The proposed change shall be less objectionable in external effects than the previous nonconforming use, and will be more consistent physically with its surroundings.
- b. There will be no increase in traffic generation or congestion including both vehicular and pedestrian traffic.
- c. There will be no increase in the danger of fire or explosion.
- d. There will be no increase in noise, smoke, dust, fumes, vapors, gases, heat, odor, glare, vibration or electrical disturbances.
- e. There will be no increased threat to health by reason of rodent infestation or otherwise.
- f. There will be no reduction in minimum lot area requirements as a result of the proposed change.

SECTION 907

ENLARGEMENT OF NONCONFORMING USE OR STRUCTURE

A nonconforming structure or a nonconforming use shall not be enlarged except as a special exception authorized by the Zoning Hearing Board in accordance with the following:

- a. The enlargement will not replace a conforming use.
- b. Nonconforming Structure or Nonconforming Use: The area subject to a proposed expansion shall after enlargement conform to all area and bulk requirements applicable to conforming buildings in the zone in which it is located and to all applicable off-street parking and loading requirements.
- c. The floor or land area of a nonconforming structure or use shall be enlarged not more than twenty-five (25) percent of the floor or land area as it existed at the time the structure or use first became nonconforming.
- d. Not more than one enlargement of a nonconforming use shall be permitted.
- e. A nonconforming structure or use shall not be enlarged beyond the limits of the zoning lot on which it is located. Expansion to an adjoining lot is prohibited.
- f. A structure containing residential dwelling uses, both conforming and nonconforming, shall not be enlarged to increase the number of dwelling units unless in full compliance with all other applicable provisions of this Ordinance

SECTION 908

REPAIR AND REHABILITATION

Nonconforming structures and structures containing nonconforming uses may be normally maintained and repaired provided that there is no alteration which extends the area occupied by the nonconforming use. A structure containing nonconforming residential uses may be altered to improve interior livability, subject to no structural alterations which would increase the number of dwelling units or the bulk of the building.

SECTION 909

RESTORATION OF USE AND/OR STRUCTURE

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 910

TERMINATION OF NONCONFORMING USE AND/OR STRUCTURE

910.1

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.

910.2

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.

910.3

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 to be abandoned if it is changed as set forth in Section 909.2 or if it is discontinued for a period of one year or more without substantial evidence of intent to resume the nonconforming use by documented overt actions.

If a nonconforming structure, containing a nonconforming use, becomes physically and structurally unsafe due to the lack of maintenance or repairs and it 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.

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 ADVERTISING SIGN:** A temporary real estate sign, not greater than sixty (60) square feet in area, which advertises the sale of property within an approved subdivision or planned residential development.
- F. **INSTITUTIONAL SIGN:** A sign which identifies a use pertaining to a school, church, hospital or other institution of a similar public or semipublic nature.
- G. **ON-SITE DIRECTIONAL AND/OR INFORMATIONAL SIGN:** A sign commonly associated with, and limited to, information and directions necessary for visitors entering or exiting a property, including signs marking entrance and exits, parking areas, circulation direction, restrooms and pick-up and delivery areas. Such signs shall contain no advertising material.
- H. **SUBDIVISION/DEVELOPMENT IDENTIFICATION SIGN:** A sign that displays the name of a subdivision and/or development at an entrance to the site upon which the subdivision or development is located.
- I. **EVENT SIGNS:** A temporary sign advertising private not-for-profit events and fund-raisers such as picnics, bazaars, gaming events, arts and crafts shows, and similar types of fundraising activities.

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, S-1, 1-1 and I-2 Zoning Districts.
- C. REAL ESTATE SIGNS: Such signs shall be permitted in all zoning districts.
- D. SUBDIVISION/DEVELOPMENT ADVERTISING SIGNS: Such signs shall be permitted in all zoning districts 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 an I-1 zoning district.
- H. SUBDIVISION/DEVELOPMENT IDENTIFICATION SIGNS: Such signs shall be permitted in all zoning districts.
- I. EVENT SIGNS: Such signs shall be permitted in all zoning districts.

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 the square feet of 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
 - S-1 District – Fifty (50) square feet
 - I-1 District - One Hundred (100) square feet
 - I-2 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 one (1) business pylon sign shall be permitted on the lot, that indicates the name of the shopping center and/or the names of the business establishments located therein. Only one (1) such sign shall be permitted on the lot and such sign shall not exceed three hundred (300) square feet in area.

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

The maximum height of any business sign shall not exceed 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 ADVERTISING SIGN: A subdivision/development advertising 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 fifty (50) 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 (1) double-faced panel shall be permitted on the same structure or standard.

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

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

Such signs shall be setback not less than three-hundred (300) feet from the centerline of any highway or 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. SUBDIVISION/DEVELOPMENT IDENTIFICATION SIGN: A subdivision/development identification sign shall not exceed ten (10) square feet in area. Not more than one (1) sign shall be erected at any entrance point to the subdivision/development. Such signs shall be setback not less than ten (10) feet from the front lot line.
- I. EVENT SIGN: An event sign shall not exceed six (6) square feet in area, having dimensions of 2'x3' feet. Such signs shall not be attached to any tree, utility pole or structure within a public right-of-way. Such signs shall not be posted more than forty-five (45) days in advance of the scheduled event and shall be removed within thirty (30) days following the event.
- J. NUMBER OF SIGNS: Excluding on-site directional and/or informational signs and business signs within a shopping center, 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. If an existing building has a front yard setback that is less than ten (10) feet, any new proposed sign shall be attached flat against the building as a wall sign.

SECTION 1006 SIGNS RELATED TO NONCONFORMING USES

An existing sign related to a legally established nonconforming use shall be considered a nonconforming sign, that may be continued at its present dimensions and location, but shall not be enlarged. Where a nonconforming use is lawfully changed to another nonconforming use, a new sign shall be permitted being the same type and size as the previous sign. The new sign shall be erected on the property at the same location as the previous sign. The sign may be erected at a different location provided it meets all applicable regulations within 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 that are incidental to the display itself. Computation of the area for particular signs shall be in accordance with the following regulations:

- A. WALL SIGN: For a sign painted upon or applied to a building, the area shall be considered to include all lettering, wording and accompanying design or symbols together with any backing associated with the sign.
- B. SEPARATE SYMBOLS: Where the sign consists of individual letters or symbols attached to or painted on a surface; building, wall or window, the area shall be considered to be that of the smallest rectangle or other shape that encompasses all of the letters and symbols.
- C. DOUBLE-FACE SIGN: With the exception of a billboard, when computing the area of a double-face sign, only one (1) sign shall be considered, provided both faces are identical.
- D. CYLINDRICAL SIGN: The area of a cylindrical sign shall be computed by multiplying one-half ($\frac{1}{2}$) 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 ILLUMINATED SIGNS

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

SECTION 1010 PROHIBITED SIGNS

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

- A. Signs that are located in such a position which endangers vehicular and/or pedestrian traffic by obscuring the site distance.
- B. Signs which by design and/or location may be confused with traffic signs or signals.
- C. Any sign located in or extending into a public right-of-way, including sidewalk areas, except an official street sign or traffic control sign.
- D. Any freestanding or projecting sign within an area bounded by the intersection of two (2) public or private streets, for a distance of twenty (20') feet along the centerline of the right-of-way of such streets from the point of their intersection.
- E. 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 1011 PERMITS REQUIRED

A zoning permit shall be required for the erection, alteration or relocation of any sign that 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 sixty-two (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, unless a greater distance is required for a specific use as contained within Article 8, Supplemental Regulations.

SECTION 1105 **DIMENSIONS AND DESIGN OF OFF-STREET PARKING AREAS**

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

- A. Stall width shall not be less than nine (9) feet.
- B. Stall depth shall not be less than eighteen (18) feet.

- C. The minimum width of aisles providing access to parking stalls, with one-way traffic, varying with the angle of parking shall be as follows:

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

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

SECTION 1106 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 1107 DRAINAGE AND SURFACING OF OFF-STREET PARKING AREAS

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

SECTION 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 is 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 ($\frac{1}{2}$) shall be disregarded and any fraction equal to or greater than one-half ($\frac{1}{2}$) shall be construed to require a full space.

SECTION 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:

RESIDENTIAL USES

- Single-Family Detached Dwelling: Two (2) spaces for each dwelling unit.
- Two-Family Structure: Two (2) spaces for each dwelling unit.
- Multi-Family Residential (Townhouses and Garden Apartments): Two (2) spaces for each dwelling unit. plus .25 spaces per dwelling unit.
- Boarding House/Rooming House: One and one-half (1.50) spaces for each rooming unit which is rented or leased, plus all other off-street parking spaces required for any other use or uses located within the structure.
- Bed and Breakfast: Three spaces and one and one-half (1.50) spaces for each guest rental room.
- Home Occupation:
 - a. Four (4) spaces for any medical practitioner.
 - b. Two (2) spaces for all other home occupation.
- Residential Conversion: Two (2) spaces for each dwelling unit created through conversion of existing nonresidential space.
- Group Residence: Two (2) spaces for each resident listing the dwelling as their docile and legal address.

NONRESIDENTIAL USES

- After Hours Club: Twenty-five (25) spaces plus the greater of one (1) space for each person based upon the maximum number of persons who can be legally allowed entry bases upon the Pennsylvania Uniform Construction Code (UCC) or one (1) space for each 30 square feet of gross floor area.
- Animal Hospital: Five (5) spaces for every veterinarian.
- Auditorium of Similar Place of Assembly: One (1) space for every four (4) seats or one (1) space for every thirty (30) square feet of gross floor area if fixed seating is not provided.
- Automobile Sales: One (1) exterior space for every six hundred (600) square feet of gross interior floor space plus one (1) additional space per each five thousand (5,000) square feet of open sales or display area.
- Automotive Repairs: One (1) exterior space for every two hundred (200) square feet of gross interior floor area.

- **Big Box Retail Stores:**
 - a. Four (4) spaces for each 1,000 square feet of gross floor area.
 - b. The number of off-street parking spaces shall not exceed 110% of the required minimum number of off-street parking spaces. The above requirement may be increased to 125% when porous pavement is used in areas of the parking lot that do not receive heavy traffic, such as parking stalls, cart areas and cross walks.
- **Bottle Club:** One (1) space for every one hundred (100) square feet of gross floor area, plus:
 - a. one (1) additional space for every two (2) seats and/or, one (1) space for each fifty (50) square feet of floor area when there is no fixed seating.
 - b. two (2) additional spaces for every three (3) employees based upon the maximum working shift.
- **Car Wash and Auto Detailing:** One (1) space for each employee on the maximum working shift.
- **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 (12) feet of bench length, if fixed seating is not provided, one (1) space for every 30 square feet of gross floor area.
- **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, based upon the maximum capacity.
- **Day Care Facility:** One (1) space for each employee, plus one (1) space for every five (5) individuals served by the facility, based upon the maximum number of individuals which the facility is licensed to serve.
- **Entertainment Facilities:** One (1) space for every one hundred (100) square feet of gross floor area.
- **Equipment Sales and Repairs:** One (1) space for every two hundred (200) square feet of gross floor space.
- **Fast Food Restaurants:** One (1) space for every eighty (80) square feet of service or dining area, with a minimum of five (5) 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.

- Funeral Homes and Crematories: Twenty (20) spaces for each viewing parlor.
- 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.
- 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.
- Manufacturing / Industrial Uses: One space for every 1,000 square feet of gross floor area; plus one space for every two employees on the maximum working shift.
- Medical or Dental Office or Clinic: Five (5) spaces for every doctor, dentist, chiropractor or other licensed medical practitioner.
- Methadone Treatment Facility: Twelve (12) spaces for every doctor, licensed medical practitioner, and/or counselor; employed at the facility and one (1) additional space for every one hundred (100) square feet of gross floor area.
- Motels and Hotels: One (1) space for each unit for guest accommodations plus one (1) space for each two (2) employees on the maximum working shift. Any such facility which also serves food and/or beverages shall also comply with the parking requirements of a restaurant or tavern.
- Nonprofit Social Hall and Clubs: One (1) space for every two hundred (200) square feet of gross floor area.
- Nursing Home/Continuing Care Facility: One (1) space for every three (3) beds, based upon the maximum number of beds permitted under its State license, plus one (1) space each employee on the maximum working shift.
- Pawn Shop: One (1) space for every one hundred (100) square feet of gross floor area, plus two (2) additional spaces for every three (3) employees based upon the maximum working shift.
- Personal Care Home: Four (4) spaces, plus one space for each person residing or eligible to reside in the facility based upon State licensing, who are not related operator of the facility.

- Personal Services: One (1) space for every three hundred (300) square feet of gross floor area.
- 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 gross floor area when there is no fixed seating.
- Professional or Service Offices: One (1) space for every three hundred (300) square feet of gross floor area.
- Public Uses: One (1) space for every one hundred (100) square feet of gross floor space.
- 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.
- Recreational Facilities (Indoor): One space for every 100 square feet of gross floor area
- Recreational Facilities (Outdoor): 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 three thousand (3,000) 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.
- Restaurants and Taverns: One (1) space for every three (3) seats, plus two spaces for every three employees on the maximum working shift.
- Retail Businesses: One (1) space for every three hundred (300) square feet of gross floor area.
- Schools, Elementary and Secondary: One (1) space for each staff member, plus one space for every twenty (20) classroom seats, based upon the maximum capacity.
- Self-Service Coin-Operated Laundries and Dry Cleaners: Shall provide one (1) space for every two (2) washing or drying machines.
- 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.
- Sexually Oriented Businesses:
 - a. Sexually Oriented Bookstore: One (1) space for every one hundred (100) square feet of gross floor area, plus two additional (2) spaces or every

three (3) employees based upon the maximum working shift.

b. Sexually Oriented Entertainment: One (1) space for every one hundred (100) square feet of gross floor area, plus:

- one (1) additional space for every two (2) seats and/or, one (1) space for each fifty (50) square feet of floor area when there is no fixed seating.
- two (2) additional spaces for every three (3) employees based upon the maximum working shift.

c. Massage Parlor: One (1) space for every one hundred (100) square feet of gross floor area, plus two (2) additional spaces for every three (3) employees based upon the maximum working shift.

- Shopping Center: Five (5) spaces for each one thousand (1,000) square feet of gross floor area.
- Warehousing: One space for every 2,000 square feet of gross floor area; plus one space for every two employees on the maximum working shift.

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 two-hundred (200) 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 (9¹/₂) 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 adjoin the off-street parking area.

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

SECTION 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 1115 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 |

| |
|--|
| <p style="text-align: center;">ARTICLE 12 FLOOD PLAIN MANAGEMENT</p> |
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SECTION 1201 STATUTORY AUTHORIZATION

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

SECTION 1202 INTENT

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

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

SECTION 1203 APPLICABILITY

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

SECTION 1204 ABROGATION AND GREATER RESTRICTIONS

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

SECTION 1205 SEVERABILITY

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

SECTION 1206 WARNING AND DISCLAIMER OF LIABILITY

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

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

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

SECTION 1207 DEFINITIONS

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

Specific Definitions

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

lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

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

- Individually listed on a local inventory of historic places in communities with historic preservation that have been certified either:

By an approved state program as determined by the Secretary of the Interior

or

Directly by the Secretary of the Interior in states without approved programs.

17. Lowest floor - the lowest floor of the lowest fully enclosed area (including basement). An unfinished, flood resistant partially enclosed area, used solely for parking of vehicles, building access, and incidental storage, in an area other than a basement area is not considered the lowest floor of a building, provided that such space is not designed and built so that the structure is in violation of the applicable non-elevation design requirements of this Article.
18. Manufactured home - a structure, transportable in one or more sections, which is built on a permanent chassis, and is designed for use with or without a permanent foundation when attached to the required utilities. The term includes park trailers, travel trailers, recreational and other similar vehicles which are placed on a site for more than 180 consecutive days.
19. Manufactured home park or subdivision – a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.
20. Minor repair - the replacement of existing work with equivalent materials for the purpose of its routine maintenance and upkeep, but not including the cutting away of any wall, partition or portion thereof, the removal or cutting of any structural beam or bearing support, or the removal or change of any required means of egress, or rearrangement of parts of a structure affecting the exitway requirements; nor shall minor repairs include addition to, alteration of, replacement or relocation of any standpipe, water supply, sewer, drainage, drain leader, gas, oil, waste, vent, or similar piping, electric wiring or mechanical or other work affecting public health or general safety.
21. New construction - structures for which the start of construction commenced on or after April, 1, 1981, and includes any subsequent improvements thereto.
22. New manufactured home park or subdivision – a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.
23. Person - an individual, partnership, public or private association or corporation, firm, trust, estate, municipality, governmental unit, public utility or any other legal entity whatsoever, which is recognized by law as the subject of rights and duties.
24. Recreational vehicle - a vehicle which is built on a single chassis; not more than

- 400 square feet, measured at the largest horizontal projections; designed to be self-propelled or permanently towable by a light-duty truck; not designed for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.
25. Regulatory flood elevation - the base flood elevation (BFE) plus a freeboard safety factor of one and one-half (1 ½) feet.
 26. Repetitive loss – flood related damages sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on average, equals or exceeds 25 percent of the market value of the structure before the damages occurred.
 27. Special permit - a special approval which is required for hospitals, nursing homes, jails, and new manufactured home parks and subdivisions and substantial improvements to such existing parks, when such development is located in all, or a designated portion of a floodplain.
 28. Special flood hazard area (SFHA) - means an area in the floodplain subject to a 1 percent or greater chance of flooding in any given year. It is shown on the FIRM as Zone A, AO, A1-A30, AE, A99, or, AH.
 29. Start of construction - includes substantial improvement and other proposed new development and means the date the Permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days from the date of the permit. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufacture home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first, alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.
 30. Structure – a walled and roofed building, including a gas or liquid storage tank that is principally above ground, as well as a manufactured home.
 31. Subdivision - the division or redivision of a lot, tract, or parcel of land by any means into two or more lots, tracts, parcels or other divisions of land including changes in existing lot lines for the purpose, whether immediate or future, of lease, partition by the court for distribution to heirs, or devisees, transfer of ownership or building or lot development: Provided, however, that the subdivision by lease of land for agricultural purposes into parcels of more than ten acres, not involving any new street or easement of access or any residential

dwelling, shall be exempted.

32. Substantial damage - damage from any cause sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed fifty (50) percent or more of the market value of the structure before the damage occurred.
33. Substantial improvement - Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage or "repetitive loss." regardless of the actual repair work performed. The term does not, however include either:
- Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or;
 - Any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."
34. Uniform Construction Code (UCC) – The statewide building code adopted by The Pennsylvania General Assembly in 1999 applicable to new construction in all municipalities whether administered by the municipality, a third party or the Department of Labor and Industry. Applicable to residential and commercial buildings, The Code adopted The International Residential Code (IRC) and the International Building Code (IBC), by reference, as the construction standard applicable with the State floodplain construction. For coordination purposes, references to the above are made specifically to various sections of the IRC and the IBC.
33. Violation - means the failure of a structure or other development to be fully compliant with the applicable flood plain management regulations of Foster Township as set forth in this Article. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in 44 CFR § 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(4) or (e)(5) and within this Article is presumed to be in violation until such time as that documentation is provided.

SECTION 1208

DESIGNATION OF THE FLOODPLAIN ADMINISTRATOR

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

SECTION 1209

PERMITS REQUIRED

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

SECTION 1210

DUTIES AND RESPONSIBILITIES OF THE FLOODPLAIN
ADMINISTRATOR

- A. The Floodplain Administrator shall issue a Permit only after it has been determined that the proposed work to be undertaken will be in conformance with the requirements of this Article and all other applicable codes and ordinances.
- B. Prior to the issuance of any permit, the Floodplain Administrator shall review the application for the permit to determine if all other necessary government permits required by state and federal laws have been obtained, such as those required by the Pennsylvania Sewage Facilities Act (Act 1966-537, as amended); the Pennsylvania Dam Safety and Encroachments Act (Act 1978-325, as amended); the Pennsylvania Clean Streams Act (Act 1937-394, as amended); and the U.S. Clean Water Act, Section 404, 33, U.S.C. 1344. No permit shall be issued until this determination has been made.
- C. In the case of existing structures, prior to the issuance of any Development/Permit, the Floodplain Administrator shall review the history of repairs to the subject building, so that any repetitive loss issues can be addressed before the permit is issued.
- D. During the construction period, the Floodplain Administrator or other authorized official shall inspect the premises to determine that the work is progressing in compliance with the information provided on the permit application and with all applicable municipal laws and ordinances.
- E. He/she shall make as many inspections during and upon completion of the work as are necessary. In the discharge of his/her duties, the Floodplain Administrator shall have the authority to enter any building, structure, premises or development in the identified floodplain area, upon presentation of proper credentials, at any reasonable hour to enforce the provisions of this Article.
- F. In the event the Floodplain Administrator discovers that the work does not comply with the permit application or any applicable laws and ordinances, or that there has been a false statement or misrepresentation by any applicant, the Floodplain Administrator shall revoke the Permit and report such fact to Board of Supervisors for whatever action it considers necessary.
- G. The Floodplain Administrator shall maintain all records associated with the requirements of this Article including, but not limited to, permitting, inspection and enforcement.
- H. The Floodplain Administrator shall consider the requirements of the 34 PA Code and the 2006 IBC and the 2006 IRC or latest revisions thereof. Application Procedures and Requirements

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

- C. Applicants shall file the following minimum information plus any other pertinent information as may be required by the Floodplain Administrator to make the above determination:
1. A completed Permit Application Form.
 2. A plan of the entire site, clearly and legibly drawn at a scale of one (1) inch being equal to one hundred (100) feet or less, showing the following:
 - a. north arrow, scale, and date;
 - b. topographic contour lines, if available;
 - c. the location of all existing and proposed buildings, structures, and other improvements, including the location of any existing or proposed subdivision and development;
 - d. the location of all existing streets, drives, and other access ways; and
 - e. the location of any existing bodies of water or watercourses, identified floodplain areas, and, if available, information pertaining to the floodway, and the flow of water including direction and velocities.
 3. Plans of all proposed buildings, structures and other improvements, drawn at suitable scale showing the following:
 - a. the proposed lowest floor elevation of any proposed building based upon North American Vertical Datum of 1988;
 - b. the elevation of the base flood;
 - c. supplemental information as may be necessary under 34 PA Code, the 2006 IBC or the 2006 IRC.
 4. The following data and documentation:
 - a. if available, information concerning flood depths, pressures, velocities, impact and uplift forces and other factors associated with a base flood elevation; and
 - b. detailed information concerning any proposed floodproofing measures and corresponding elevations.
 - c. documentation, certified by a registered professional engineer or architect, to show that the cumulative effect of any proposed development within an Special Floodplain Area (See Section 1221(B) when combined with all other existing and anticipated development, will not increase the base flood elevation more than

one (1) foot at any point.

- d. a document, certified by a registered professional engineer or architect, which states that the proposed construction or development has been adequately designed to withstand the pressures, velocities, impact and uplift forces associated with the base flood.

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

- e. detailed information needed to determine compliance with Section 1225 (F). Storage, and Section 1226, Development Which May Endanger Human Life, including:
 - i the amount, location and purpose of any materials or substances referred to in Sections 1225 (F). and 1226 which are intended to be used, produced, stored or otherwise maintained on site.
 - ii. a description of the safeguards incorporated into the design of the proposed structure to prevent leaks or spills of the dangerous materials or substances listed in Section 5.04 during a base flood.
- f. the appropriate component of the Department of Environmental Protection's "Planning Module for Land Development."
- g. where any excavation or grading is proposed, a plan meeting the requirements of the Department of Environmental Protection, to implement and maintain erosion and sedimentation control.

- 5. Applications for Permits shall be accompanied by a fee, payable to Foster Township based upon the estimated cost of the proposed construction as determined by the Floodplain Administrator.

SECTION 1212 REVIEW BY COUNTY CONSERVATION DISTRICT

A copy of all applications and plans for any proposed construction or development in any identified floodplain area to be considered for approval shall be submitted by the Floodplain Administrator to the County Conservation District for review and comment prior to the issuance of a Permit. The recommendations of the Conservation District shall be considered by the Floodplain Administrator for possible incorporation into the proposed plan.

SECTION 1213 REVIEW OF APPLICATION BY OTHERS

A copy of all plans and applications for any proposed construction or development in any identified floodplain area to be considered for approval may be submitted by the

Floodplain Administrator to any other appropriate agencies and/or individuals (e.g. planning commission, municipal engineer, etc.) for review and comment.

SECTION 1214 CHANGES

After the issuance of a Permit by the Floodplain Administrator, no changes of any kind shall be made to the application, permit or any of the plans, specifications or other documents submitted with the application without the written consent or approval of the Floodplain Administrator. Requests for any such change shall be in writing, and shall be submitted by the applicant to Floodplain Administrator for consideration.

SECTION 1215 PLACARDS

In addition to the Permit, the Floodplain Administrator shall issue a placard which shall be displayed on the premises during the time construction is in progress. This placard shall show the number of the Permit the date of its issuance and be signed by the Floodplain Administrator.

SECTION 1216 START OF CONSTRUCTION

Work on the proposed construction and/or development shall begin within 180 days after the date of issuance and shall be completed within twelve (12) months after the date of issuance of the Permit or the permit shall expire unless a time extension is granted, in writing, by the Floodplain Administrator. Construction and/or development shall be considered to have started with the preparation of land, land clearing, grading, filling, excavation of basement, footings, piers, or foundations, erection of temporary forms, the installation of piling under proposed subsurface footings, or the installation of sewer, gas and water pipes, or electrical or other service lines from the street.

Time extensions shall be granted only if a written request is submitted by the applicant, which sets forth sufficient and reasonable cause for the Floodplain Administrator to approve such a request.

SECTION 1217 ENFORCEMENT

A. Notices

Whenever the Floodplain Administrator or other authorized municipal representative determines that there are reasonable grounds to believe that there has been a violation of any provisions of this Article, or of any regulations adopted pursuant thereto, the Floodplain Administrator shall give notice of such alleged violation as hereinafter provided. Such notice shall:

1. be in writing;
2. include a statement of the reasons for its issuance;
3. allow a reasonable time not to exceed a period of thirty (30) days for the performance of any act it requires;

4. be served upon the property owner or his agent as the case may require; provided, however, that such notice or order shall be deemed to have been properly served upon such owner or agent when a copy thereof has been served with such notice by any other method authorized or required by the laws of this State;
5. contain an outline of remedial action which, if taken, will effect compliance with the provisions of this Article.

B. Penalties

Any person who fails to comply with any or all of the requirements or provisions of this Article or who fails or refuses to comply with any notice, order of direction of the Floodplain Administrator or any other authorized employee of the municipality shall be guilty of a misdemeanor and upon conviction shall pay a fine to Foster Township of not less than Twenty-five Dollars (\$25.00) nor more than Six Hundred Dollars (\$600.00) plus costs of prosecution. In addition to the above penalties all other actions are hereby reserved including an action in equity for the proper enforcement of this Article. The imposition of a fine or penalty for any violation of, or noncompliance with, this Article shall not excuse the violation or noncompliance or permit it to continue and all such persons shall be required to correct or remedy such violations and noncompliance within a reasonable time. Any development initiated or any structure or building constructed, reconstructed, enlarged, altered, or relocated, in noncompliance with this Article may be declared by the Board of Supervisors to be a public nuisance and abatable as such.

SECTION 1218 APPEALS

- A. Any person aggrieved by any action or decision of the Floodplain Administrator concerning the administration of the provisions of this Article, may appeal to the Zoning Hearing Board. Such appeal must be filed, in writing, within thirty (30) days after the decision, determination or action of the Floodplain Administrator.
- B. Upon receipt of such appeal the Zoning Hearing Board convene a hearing in accordance with the procedures set in Article 14, SECTION 1406, HEARINGS.
- C. Any person aggrieved by any decision of the Zoning Hearing Board may seek relief there from by appeal to court, as provided by the laws of this State including the Pennsylvania Flood Plain Management Act.

SECTION 1219 IDENTIFICATION OF FLOODPLAIN AREAS

The identified floodplain area shall be any areas of Foster Township, classified as special flood hazard areas (SFHAs) in the Flood Insurance Study (FIS) and the accompanying Flood Insurance Rate Maps (FIRMs) dated April 1, 1981, and issued by the Federal Emergency Management Agency (FEMA) or the most recent revision thereof, including all digital data developed as part of the Flood Insurance Study.

The above referenced FIS and FIRMs, and any subsequent revisions and amendments are hereby adopted by Foster Township and declared to be a part of this ordinance.

SECTION 1220

DESCRIPTION AND SPECIAL REQUIREMENTS OF IDENTIFIED FLOODPLAIN AREAS

Identified floodplain area shall consist of the following specific areas:

A. Floodway Area

1. Description - the area identified as Floodway in the FIS which represents the channel of a watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation by more than one (1) foot at any point.

This term shall also include floodway areas which have been identified in other available studies or sources of information for those special floodplain areas where no floodway has been identified in the FIS.

2. Special Requirements:
 - a. Any encroachment that would cause any increase in flood heights shall be prohibited.
 - b. No new construction or development shall be allowed, unless a permit is obtained from the Department of Environmental Protection Regional Office.

B. Special Floodplain Area

1. Description - the areas identified as Zones AE and A1-30 in the FIS which are subject to inundation by the 1-percent-annual chance flood event determined by detailed methods and have base flood elevations (BFEs) shown.
2. Special Requirements:
 - a. No new construction or development shall be located within the area measured fifty (50) feet landward from the top-of-bank of any watercourse.
 - b. In Special Floodplain Areas without a designated floodway, no new development shall be permitted unless it can be demonstrated that the cumulative effect of all past and projected development will not increase the BFE by more than one (1) foot.

C. Approximate Floodplain Area

1. Description - the areas identified as Zone A in the FIS which are subject to inundation by the 1-percent-annual-chance flood event determined using

approximate methodologies. Because detailed hydraulic analyses have not been performed, no BFEs or flood depths are shown.

2. Special Requirements:

- a. No new construction or development shall be located within the area measured fifty (50) feet landward from the top-of-bank of any watercourse.
- b. When available, information from other Federal, State, and other acceptable sources shall be used to determine the BFE, as well as a floodway area, if possible. When no other information is available, the BFE shall be determined by using a point on the boundary of the identified floodplain area which is nearest the construction site in question.

In lieu of the above, the municipality may require the applicant to determine the elevation with hydrologic and hydraulic engineering techniques. Hydrologic and hydraulic analyses shall be undertaken only by professional engineers or others of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently accepted technical concepts. Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough technical review by Foster Township.

D. Shallow Flooding Area

1. Description - the areas identified as Zones AO and AH in the FIS. These areas are subject to inundation by 1-percent-annual-chance shallow flooding where average depths are between one and three feet.
2. Special Requirements - Establish drainage paths to guide floodwaters around and away from structures on slopes.

SECTION 1221 CHANGES IN IDENTIFICATION OF AREA

The identified floodplain area may be revised or modified by the Foster Township Board of Supervisors where studies or information provided by a qualified agency or person documents the need for such revision. However, prior to any such change, approval must be obtained from the FEMA. Additionally, as soon as practicable, but not later than six (6) months after the date such information becomes available, a community shall notify the FEMA of the changes by submitting technical or scientific data.

SECTION 1222 BOUNDARY DISPUTES

Should a dispute concerning any identified floodplain boundary arise, an initial determination shall be made by the Foster Township Planning Commission and any party aggrieved by this decision or determination may appeal to the Foster Township Zoning Hearing Board. The burden of proof shall be on the appellant.

SECTION 1223

TECHNICAL PROVISIONS

Section 1223.1

General

A. Alteration or Relocation of Watercourse

1. No encroachment, alteration, or improvement of any kind shall be made to any watercourse until all adjacent municipalities which may be affected by such action have been notified by the municipality, and until all required permits or approvals have been first obtained from the Department of Environmental Protection Regional Office.
2. No encroachment, alteration, or improvement of any kind shall be made to any watercourse unless it can be shown that the activity will not reduce or impede the flood carrying capacity of the watercourse in any way.
3. In addition, the FEMA and Pennsylvania Department of Community and Economic Development, shall be notified prior to any alteration or relocation of any watercourse.

B. Technical or scientific data shall be submitted to FEMA for a Letter of Map Revision (LOMR) within six (6) months of the completion of any new construction, development, or other activity resulting in changes in the BFE.

C. Any new construction, development, uses or activities allowed within any identified floodplain area shall be undertaken in strict compliance with the provisions contained in this Article and any other applicable codes, ordinances and regulations.

SECTION 1224

ELEVATION AND FLOODPROOFING REQUIREMENTS

A. Residential Structures

1. In AE, A1-30, and AH Zones, any new construction or substantial improvement shall have the lowest floor (including basement) elevated to the base flood elevation plus one and one-half (1 ½) foot of freeboard.
2. In A Zones, where there are no Base Flood Elevations specified on the FIRM, any new construction or substantial improvement shall have the lowest floor (including basement) elevated one and one-half (1 ½) feet of above the regulatory flood elevation in accordance with Section 1221.C.2.b of this Article.
3. In AO Zones, any new construction or substantial improvement shall have the lowest floor (including basement) elevated one and one-half (1 ½) feet above the highest adjacent grade of the depth number specified on the FIRM.
4. The design and construction standards and specifications contained in the 2006 International Building Code (IBC) and in the 2006 International

Residential Code (IRC) or the most recent revisions thereof and ASCE 24 and 34 PA Code (Chapters 401-405 as amended) shall be utilized.

B. Non-residential Structures

1. In AE, A1-30 and AH Zones, any new construction or substantial improvement of a non-residential structure shall have the lowest floor (including basement) elevated to the base flood elevation plus one and one-half (1 ½) foot of freeboard or be designed and constructed so that the space enclosed below the regulatory flood elevation:
 - a. is floodproofed so that the structure is watertight with walls substantially impermeable to the passage of water and,
 - b. has structural components with the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy:
2. In A Zones, where there no Base Flood Elevations are specified on the FIRM, any new construction or substantial improvement shall have the lowest floor (including basement) elevated one and one-half (1 ½) feet of above the regulatory flood elevation or completely floodproofed to the regulatory flood elevation in accordance with 1221.C.2.b of this Article.
3. In AO Zones, any new construction or substantial improvement shall have their lowest floor elevated or completely floodproofed above the highest adjacent grade to at least one and one-half (1 ½) feet above the depth number specified on the FIRM.
4. Any non-residential structure, or part thereof, made watertight below the regulatory flood elevation shall be floodproofed in accordance with the WI or W2 space classification standards contained in the publication entitled "Flood-Proofing Regulations" published by the U.S. Army Corps of Engineers (June 1972, as amended March 1992) or with some other equivalent standard. All plans and specifications for such floodproofing shall be accompanied by a statement certified by a registered professional engineer or architect which states that the proposed design and methods of construction are in conformance with the above referenced standards.
5. The design and construction standards and specifications contained in the 2006 International Building Code (IBC) and in the 2006 International Residential Code (IRC) or the most recent revisions thereof and ASCE 24 and 34 PA Code (Chapters 401-405 as amended) shall be utilized.

C. Space Below the Lowest Floor

1. Fully enclosed space below the lowest floor (excluding basements) which will be used solely for the parking of a vehicle, building access, or incidental storage in an area other than a basement, shall be designed and constructed to allow for the automatic entry and exit of flood waters for

the purpose of equalizing hydrostatic forces on exterior walls. The term "fully enclosed space" also includes crawl spaces.

2. Designs for meeting this requirement must either be certified by a registered professional engineer or architect, or meet or exceed the following minimum criteria:
 - a. a minimum of two openings having a net total area of not less than one (1) square inch for every square foot of enclosed space.
 - b. the bottom of all openings shall be no higher than one (1) foot above grade.
 - c. openings may be equipped with screens, louvers, etc. or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

D. Accessory Structures

Structures accessory to a principal building need not be elevated or floodproofed to remain dry, but shall comply, at a minimum, with the following requirements:

1. the structure shall not be designed or used for human habitation, but shall be limited to the parking of vehicles, or to the storage of tools, material, and equipment related to the principal use or activity.
2. floor area shall not exceed 100 square feet.
3. The structure will have a low damage potential.
4. the structure will be located on the site so as to cause the least obstruction to the flow of flood waters.
5. power lines, wiring, and outlets will be elevated to the regulatory flood elevation.
6. permanently affixed utility equipment and appliances such as furnaces, heaters, washers, dryers, etc. are prohibited.
7. sanitary facilities are prohibited.
8. the structure shall be adequately anchored to prevent flotation or movement and shall be designed to automatically provide for the entry and exit of floodwater for the purpose of equalizing hydrostatic forces on the walls. Designs for meeting this requirement must either be certified by a registered professional engineer or architect, or meet or exceed the following minimum criteria:
 - a. a minimum of two openings having a net total area of not less than one (1) square inch for every square foot of enclosed space.

- b. the bottom of all openings shall be no higher than one (1) foot above grade.
- c. openings may be equipped with screens, louvers, etc. or other coverings or devices provided that they permit the automatic entry and exit of flood waters.

SECTION 1225

DESIGN AND CONSTRUCTION STANDARDS

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

A. Fill

If fill is used, it shall:

- 1. extend laterally at least fifteen (15) feet beyond the building line from all points;
- 2. consist of soil or small rock materials only - Sanitary Landfills shall not be permitted;
- 3. be compacted to provide the necessary permeability and resistance to erosion, scouring, or settling;
- 4. be no steeper than one (1) vertical to two (2) horizontal, feet unless substantiated data, justifying steeper slopes are submitted to, and approved by the Floodplain Administrator; and
- 5. be used to the extent to which it does not adversely affect adjacent properties.

B. Drainage Facilities

Storm drainage facilities shall be designed to convey the flow of storm water runoff in a safe and efficient manner. The system shall insure proper drainage along streets, and provide positive drainage away from buildings. The system shall also be designed to prevent the discharge of excess runoff onto adjacent properties.

C. Water and Sanitary Sewer Facilities and Systems

- 1. All new or replacement water supply and sanitary sewer facilities and systems shall be located, designed and constructed to minimize or eliminate flood damages and the infiltration of floodwaters.
- 2. Sanitary sewer facilities and systems shall be designed to prevent the discharge of untreated sewage into floodwaters.
- 3. No part of any on-site sewage system shall be located within any identified floodplain area except in strict compliance with all State and

local regulations for such systems. If any such system is permitted, it shall be located so as to avoid impairment to it, or contamination from it, during a flood.

4. The design and construction provisions of the UCC and FEMA #348, Protecting Building Utilities From Flood Damages and The International Private Sewage Disposal Code shall be utilized.

D. Other Utilities

All other utilities such as gas lines, electrical and telephone systems shall be located, elevated (where possible) and constructed to minimize the chance of impairment during a flood.

E. Streets

The finished elevation of all new streets shall be no more than one (1) foot below the Regulatory Flood Elevation.

F. Storage

All materials that are buoyant, flammable, explosive, or in times of flooding, could be injurious to human, animal, or plant life, and not listed in Section 1226, Development Which May Endanger Human Life, shall be stored at or above the Regulatory Flood Elevation and/or flood proofed to the maximum extent possible.

G. Placement of Buildings and Structures

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

H. Anchoring

1. All buildings and structures shall be firmly anchored in accordance with accepted engineering practices to prevent flotation, collapse, or lateral movement.
2. All air ducts, large pipes, storage tanks, and other similar objects or components located below the regulatory flood elevation shall be securely anchored or affixed to prevent flotation.

I. Floors, Walls and Ceilings

1. Wood flooring used at or below the Regulatory Flood Elevation shall be installed to accommodate a lateral expansion of the flooring, perpendicular to the flooring grain without causing structural damage to the building.
2. Plywood used at or below the regulatory flood elevation shall be of a "marine" or "water-resistant" variety.

3. Walls and ceilings at or below the regulatory flood elevation shall be designed and constructed of materials that are "water-resistant" and will withstand inundation.
4. Windows, doors, and other components at or below the regulatory flood elevation shall be made of metal or other "water-resistant" material.

J. Paints and Adhesives

1. Paints and other finishes used at or below the regulatory flood elevation shall be of "marine" or "water-resistant" quality.
2. Adhesives used at or below the regulatory flood elevation shall be of a "marine" or "water-resistant" variety.
3. All wooden components (doors, trim, cabinets, etc.) used at or below the regulatory flood elevation shall be finished with a "marine" or "water-resistant" paint or other finishing material.

K. Electrical Components

1. Electrical distribution panels shall be at least three (3) feet above the base flood elevation.
2. Separate electrical circuits shall serve lower levels and shall be dropped from above.

L. Equipment

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

M. Fuel Supply Systems

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

N. Uniform Construction Code Coordination

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

International Building Code (IBC) 2006 or the latest edition thereof:
Secs. 801, 1202, 1403, 1603, 1605, 1612, 3402, and Appendix G.

International Residential Building Code (IRC) 2006 or the latest edition thereof:

SECTION 1226 DEVELOPMENT WHICH MAY ENDANGER HUMAN LIFE

- A. In accordance with the Pennsylvania Flood Plain Management Act, and the regulations adopted by the Department of Community and Economic Development as required by the Act, any new or substantially improved structure which:
1. will be used for the production or storage of any of the following dangerous materials or substances; or,
 2. will be used for any activity requiring the maintenance of a supply of more than 550 gallons, or other comparable volume, of any of the following dangerous materials or substances on the premises; or,
 3. will involve the production, storage, or use of any amount of radioactive substances;

shall be subject to the provisions of this section, in addition to all other applicable provisions. The following list of materials and substances are considered dangerous to human life:

- Acetone
- Ammonia
- Benzene
- Calcium carbide
- Carbon disulfide
- Celluloid
- Chlorine
- Hydrochloric acid
- Hydrocyanic acid
- Magnesium
- Nitric acid and oxides of nitrogen
- Petroleum products (gasoline, fuel oil, etc.)
- Phosphorus
- Potassium
- Sodium
- Sulphur and sulphur products
- Pesticides (including insecticides, fungicides, and rodenticides)
- Radioactive substances, insofar as such substances are not otherwise regulated.

- B. Within any Floodway Area, any structure of the kind described in Subsection A., above, shall be prohibited.

- C. Within any floodplain area, any new or substantially improved structure of the kind described in Subsection A., above, shall be prohibited within the area measured fifty (50) feet landward from the top-of-bank of any watercourse.
- D. Where permitted within any floodplain area, any new or substantially improved structure of the kind described in Subsection A., above, shall be:
 - 1. elevated or designed and constructed to remain completely dry up to at least one and one half (1 ½) feet above base flood elevation,
 - 2. designed to prevent pollution from the structure or activity during the course of a base flood elevation.

Any such structure, or part thereof, that will be built below the regulatory flood elevation shall be designed and constructed in accordance with the standards for completely dry floodproofing contained in the publication "Flood-Proofing Regulations (U.S. Army Corps of Engineers, June 1972 as amended March 1992), or with some other equivalent watertight standard.

SECTION 1227 SPECIAL REQUIREMENTS FOR SUBDIVISIONS

All subdivision proposals and development proposals containing at least 50 lots or at least 5 acres, whichever is the lesser, in flood hazard areas where base flood elevation data are not available, shall be supported by hydrologic and hydraulic engineering analyses that determine base flood elevations and floodway information. The analyses shall be prepared by a licensed professional engineer in a format required by FEMA for a Conditional Letter of Map Revision or Letter of Map Revision. Submittal requirements and processing fees shall be the responsibility of the applicant.

SECTION 1228 SPECIAL REQUIREMENTS FOR MANUFACTURED HOMES

- A. Within any FW (Floodway Area), manufactured homes shall be prohibited.
- B. Within Approximate Floodplain or Special Floodplain Area, manufactured homes shall be prohibited within the area measured fifty (50) feet landward from the top-of-bank of any watercourse.
- C. Where permitted within any floodplain area, all manufactured homes, and any improvements thereto, shall be:
 - 1. placed on a permanent foundation.
 - 2. elevated so that the lowest floor of the manufactured home is at least one and one half (1 ½) feet above base flood elevation.
 - 3. anchored to resist flotation, collapse, or lateral movement.
- D. Installation of manufactured homes shall be done in accordance with the manufacturers' installation instructions as provided by the manufacturer. Where the applicant cannot provide the above information, the requirements of Appendix

E of the 2006 International Residential Building Code or the U.S. Department of Housing and Urban Development's Permanent Foundations for Manufactured Housing, 1984 Edition, draft or latest revision thereto shall apply and 34 PA Code Chapter 401-405.

- E. Consideration shall be given to the installation requirements of the 2006 IBC, and the 2006 IRC or the most recent revisions thereto and 34 PA Code, as amended where appropriate and/or applicable to units where the manufacturers' standards for anchoring cannot be provided or were not established for the units(s) proposed installation.

SECTION 1229 SPECIAL REQUIREMENTS FOR RECREATIONAL VEHICLES

1. Recreational vehicles in Zones A, A1-30, AH and AE must either:
 - a. be on the site for fewer than 180 consecutive days,
 - b. be fully licensed and ready for highway use, or
 - c. meet the permit requirements for manufactured homes in Section 1228.

SECTION 1230 PROHIBITED USES

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

- a. Hospitals
- b. Nursing Homes (Public or Private);
- c. Jails, Prisons, or any similar detention facility; and
- d. Manufactured home park or manufactured home subdivision.

SECTION 1231 SPECIAL TECHNICAL REQUIREMENTS

- A. In addition to all applicable procedures contained within Section 1223 through and including Section 1229 of this Article, the following minimum requirements shall also apply to any proposed development requiring a Special Permit. If there is any conflict between any of the following requirements and those contained within Section 1223 through and including Section 1229 of this Article or in any other code, ordinance, or regulation, the more restrictive provision shall apply.
- B. No application for a Special Exception shall be approved unless it can be determined that the structure or activity will be located, constructed and maintained in a manner which will:
 1. Fully protect the health and safety of the general public and any occupants of the structure. At a minimum, all new structures shall be designed, located, and constructed so that:

- a. the structure will survive inundation by waters of the base flood elevation without any lateral movement or damage to either the structure itself, or to any of its equipment or contents below the BFE.
 - b. the lowest floor (including basement) will be elevated to at least one and one half (1 ½) feet above base flood elevation.
 - c. the occupants of the structure can remain inside for an indefinite period of time and be safely evacuated at any time during the base flood elevation.
2. Prevent any significant possibility of pollution, increased flood levels or flows, or debris endangering life and property.

All hydrologic and hydraulic analyses shall be undertaken only by professional engineers or others of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently accepted technical concepts. Studies, analyses, computations, etc. shall be submitted in sufficient detail to allow a thorough technical review by Foster Township and the Department of Community and Economic Development.

SECTION 1232 EXISTING STRUCTURES IN IDENTIFIED FLOODPLAIN AREAS

Section 1232.1 Existing Structures

The provisions of this Article do not require any changes or improvements to be made to lawfully existing structures. However, when an improvement is made to any existing structure, the provisions of Section 1232.2 shall apply.

Section 1232.2 Improvements

The following provisions shall apply whenever any improvement is made to an existing structure located within any identified floodplain area:

- A. No expansion or enlargement of an existing structure shall be allowed within any floodway area that would cause any increase in the elevation of the base flood elevation.
- B. No expansion or enlargement of an existing structure shall be allowed within any Special Floodplain Area that would, together with all other existing and anticipated development, increase the BFE more than one (1) foot at any point.
- C. Any modification, alteration, reconstruction, or improvement, of any kind to an existing structure, to an extent or amount of fifty (50) percent or more of its market value, shall constitute a substantial improvement and shall be undertaken only in full compliance with the provisions of this Article.
- D. The above activity shall also address the requirements of the 34 PA Code, as amended and the 2006 IBC and the 2006 IRC.

- E. Any modification, alteration, reconstruction, or improvement of any kind that meets the definition of “repetitive loss” shall be undertaken only in full compliance with the provisions of this Article

SECTION 1233 VARIANCES

Section 1233.1 General

If compliance with any of the requirements of this Article would result in an exceptional hardship to a prospective builder, developer or landowner, the Zoning Hearing Board of Foster Township may, upon request, grant relief from the strict application of the requirements.

Section 1233.2 Variance Procedures and Conditions

Requests for variances shall be considered by the Zoning Hearing Board of Foster Township in accordance with the procedures contained in Section 1218 of this Article and the following:

- A. No variance shall be granted for any construction, development, use, or activity within identified floodplain that would cause any increase the BFE.
- B. No variance shall be granted for any use, activity and/or development that is prohibited under Section 1230 of this Article
- C. Except for a possible modification of the regulatory flood elevation requirement involved, no variance shall be granted for any of the other requirements pertaining specifically to development regulated by Section 1226, Development Which May Endanger Human Life.
- D. If granted, a variance shall involve only the least modification necessary to provide relief.
- E. In granting any variance, the Zoning Hearing Board of Foster Township shall attach whatever reasonable conditions and safeguards it considers necessary in order to protect the public health, safety, and welfare, and to achieve the objectives of this Article.
- F. Whenever a variance is granted, the Zoning Hearing Board of Foster Township shall notify the applicant in writing that:
 - 1. The granting of the variance may result in increased premium rates for flood insurance.
 - 2. Such variances may increase the risks to life and property.
- G. In reviewing any request for a variance, the Zoning Hearing Board of Foster Township shall consider, at a minimum, the following:
 - 1. That there is good and sufficient cause.

2. That failure to grant the variance would result in exceptional hardship to the applicant.
3. That the granting of the variance will
 - a. neither result in an unacceptable or prohibited increase in flood heights, additional threats to public safety, or extraordinary public expense,
 - b. nor create nuisances, cause fraud on, or victimize the public, or conflict with any other applicable state or local ordinances and regulations.

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

Notwithstanding any of the above, however, all structures shall be designed and constructed so as to have the capability of resisting the 1% annual chance flood.

ARTICLE 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 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/her duties. In conducting such activities, the Zoning Officer may have access to any land, building or structure, subject to the consent and/or right of entry by the owner or tenant or by securing a search warrant issued by a Court of proper jurisdiction.
- (D) Issue permits as authorized by the Zoning Hearing Board or the Planning Commission, pursuant to the requirements and applicable procedures of this Ordinance or by written order of a Court of proper jurisdiction.
- (E) Issue Certificates of Zoning Compliance in accordance with the terms and provisions of this Ordinance.
- (F) Issue Certificates of Nonconformity to nonconforming uses and/or structures and to maintain a listing of such as required.
- (G) Maintain the Zoning Map, showing the current zoning districts of all land and the zoning text, including amendments thereto.
- (H) Notify the Zoning Hearing Board, Planning Commission or Board of Supervisors of required and/or requested hearings based upon the completion of his review and processing of applications for a zoning permit. The submission of an application for a zoning permit to the Zoning Officer and his determination that a hearing before

the Board is either required or requested shall be a prerequisite for any application being forwarded to the Zoning Hearing Board for consideration.

- (I) Participate in proceedings before the Zoning Hearing Board, Planning Commission or Board of Supervisors and at their request, furnish such facts, records and similar information which may assist them in rendering decisions.
- (J) In the event of a violation of this Ordinance, provide written notice to the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct the violation. Such written notice may be served personally or by certified mail. Corrective action may include an order to cease and desist the illegal use and/or activity of land, buildings, signs, or structures; or to remove illegal buildings, structures, additions, signs, and/or structural alterations.

SECTION 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 the Board of Supervisors in the form of a Conditional Use Permit or as otherwise provided for by this Ordinance or any Court of proper jurisdiction. Normal and routine maintenance and repairs to a structure 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 which seek approval, involving new construction, additions, structural alterations, a change of use and/or any other form of improvements to a property shall be accompanied by two (2) sets of plans and information which includes but is not limited to the following:

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

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

1302.3 PROCESSING APPLICATIONS

The Zoning Officer shall return one (1) copy of the plans and accompanying information to the applicant upon marking such copies approved or denied and attested to the same by his signature. One (1) copy of the plans and accompanying information shall be retained by the Zoning Officer and kept on file.

1302.4 TIME PERIOD FOR PROCESSING APPLICATION

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

1302.5 EXPIRATION OF ZONING PERMIT

A zoning permit shall expire one (1) year from the date of issuance, if the work described in said permit has not commenced, including permits authorized to be issued by the Zoning Hearing Board. If the work described within the zoning permit has commenced within the prescribed one (1) year period, the permit shall expire two (2) years from the date of issuance. In such cases, should the applicant wish to pursue the work described within the expired permit, a new application shall be required with the payment of new fees.

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 violation notice has the right to appeal the violation notice and request a hearing on the same before the Zoning Hearing Board within thirty (30) days from the issuance of the violation notice. Section 1506 (M) shall govern the procedural process of any appeal of a violation notice.
- F. Failure to comply with the notice within the specified time period, unless extended by an appeal to the Zoning Hearing Board, constitutes a violation, with a description of sanctions which shall result to correct or abate the violation.

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, Township Board of Supervisors or, with the approval of the Township 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 not less than thirty (30) days prior to the time the action is begun by serving a copy of the complaint to the Township Board of Supervisors. No action may be taken until such notice has been given.

1304.3 JURISDICTION

District Justices shall have initial jurisdiction over proceedings brought under 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 (\$500.00) 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 PROCEDURE TO OBTAIN PRELIMINARY OPINION

In accordance with Section 916.2 of the Pennsylvania Municipalities Planning Code, the Zoning Officer, shall be authorized to render a preliminary opinion for pending applications of development. In order not to unreasonably delay the time when a landowner may secure assurance that the ordinance or map under which he proposes to build is free from challenge, and recognizing that the procedure for preliminary approval of his development may be too cumbersome or may be unavailable, the landowner may advance the date from which time for any challenge to the ordinance or map will run under Section 1513 of this Ordinance by the following procedure:

- A. The landowner may submit plans and other materials describing his proposed use or development to the zoning officer for a preliminary opinion as to their compliance with the applicable ordinances and maps. Such plans and other materials shall not be required to meet the standards prescribed for preliminary, tentative or final approval or for the issuance of a building permit so long as they provide reasonable notice of the proposed use or development and a sufficient basis for a preliminary opinion as to its compliance.
- B. If the Zoning Officer's preliminary opinion is that the use or development complies with the ordinance or map, notice thereof shall be published once each week for two successive weeks in a newspaper of general circulation in the municipality. Such notice shall include a general description of the proposed use or development and its location, by some readily identifiable directive, and the place and times where the plans and other materials may be examined by the public. The favorable preliminary approval under Section 1207 and the time therein specified for commencing a proceeding with the Zoning hearing Board shall run from the time when the second notice thereof has been published. A favorable preliminary opinion shall in no way preclude landowner's responsibility to formally submit all required applications and gain approval of the same prior to the start of any activity related to the subject development.

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

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| <p style="text-align: center;">ARTICLE 14 AMENDMENTS</p> |
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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 Township Board of Supervisors in accordance with the provisions as set forth in the Pennsylvania Municipalities Planning Code, Act 247, as amended. Prior to adopting any amendment to this Ordinance or to the Zoning Map, the following procedures shall be met:

- (A) Any proposed amendment, not initiated by the Township Planning Commission, shall be referred to the Township Planning Commission not less than thirty (30) days prior to a public hearing before the Township Board of Supervisors to provide the Township Planning Commission an opportunity to submit any comments or recommendations regarding the proposed amendment.
- (B) Prior to voting on the enactment of any proposed amendment, the Township Board of Supervisors shall hold a public hearing pursuant to public notice. If, after any public hearing held upon a proposed amendment, said amendment is substantially changed, or is revised to include land not previously affected by the proposed amendment, the Township Board of Supervisors shall hold another public hearing before proceeding to vote on the amendment.
- (C) Any recommendation of the Township Planning Commission shall be submitted to the Township Board of Supervisors in writing.
- (D) Not less than thirty (30) days prior to the public hearing, the Township Board of Supervisors shall submit the proposed amendment to the Luzerne County Planning Commission for its comments and recommendation. In addition to the proposed amendment, the Township Board of Supervisors shall submit any required fees charged by the Luzerne County Planning Commission for their review.
- (E) Proposed action shall not be taken until the Township Planning Commission and the Luzerne County Planning Commission comments and recommendations are submitted to the Township Board of Supervisors. If either Commission fails to act within thirty (30) days, from its receipt of the proposed amendment, the Township Board of Supervisors may proceed without such recommendation.
- (F) When a proposed amendment involves a Zoning Map change, the following procedures shall be applicable:
 - 1. Notice of the public hearing shall be conspicuously posted by Township Township at points deemed sufficient along the perimeter of the tract to notify potentially interested citizens. The affected tract or area shall be posted not less than one (1) week prior to the date of the public hearing.
 - 2. Notice of the public hearing shall be mailed by Township, at

least thirty (30) days prior to the date of the public hearing, by first class mail to the addresses to which real estate tax bills are sent for all real property located within or physically bordering the area proposed to be rezoned, as evidenced by tax records within the Luzerne County Tax Assessment Office. The party requesting the zoning boundary amendment shall be responsible for securing such information and providing the same to the Township. The notice shall include the location, time and date of the public hearing. A good faith effort and substantial compliance shall be deemed to satisfy this requirement. While it shall be the intent of Foster Township to provide written notice to such owners, failure to do so shall not invalidate an otherwise duly enacted ordinance that provides for a change in the Zoning Map.

3. The above requirement shall not apply when the rezoning constitutes a comprehensive rezoning.

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 as applicable:

- (A) The applicant's name and address and/or the name and address of his authorized agent or the equitable owner.
- (B) A copy of the deed to the property, and when the applicant is not the owner of the property, appropriate documentation to establish the applicant's standing as the equitable owner.
- (C) A signed statement by the owner of record, or applicant as the case may be, attesting to the truth of the facts of all information contained within the application.
- (D) A scaled plan of the area proposed to be rezoned, which indicates abutting streets, the zone classification of adjoining properties and the names and addresses of the true and correct owners of record within the area proposed to be rezoned and physically bordering the area to be rezoned as evidenced by tax records within the Luzerne County Tax Assessor's Office.
- (E) Plans, drawings and explanatory material, which describes in detail the applicant's proposed use and/or development of the property.
- (F) Specify those Sections of this Ordinance or areas upon the Zoning Map which will be affected by the proposed amendment.

SECTION 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 Township Board of Supervisors with a written request that his challenge and proposed amendment to cure the alleged defect, be heard and decided by the Township Board of Supervisors. In addition to the written request and proposed amendment, the landowner shall also submit plans, drawings and explanatory material, which describes in detail his proposed use or development. The Township Board of Supervisors shall commence a public hearing pursuant to public notice within sixty (60) days of the landowner's request. The sixty (60) day period shall not commence until all required information and material is submitted, along with all related fees. Failure to convene a public hearing within sixty (60) days of the landowner's request shall not result in a deemed approval.

The curative amendment and supporting information shall be referred to the Township Planning Commission and the Luzerne County Planning Commission for its review and comment not less than thirty (30) days prior to the public hearing.

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

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

- (A) The impact of the proposal upon roads, sewer facilities, water supplies, schools and other public service facilities.
- (B) If the proposal is for a residential use, the impact of the proposal upon regional housing needs and the effectiveness of the proposal in providing housing units of a type actually available and affordable by classes of persons otherwise unlawfully excluded by the challenged provisions of this Ordinance and/or Zoning Map.
- (C) The suitability of the site for the intensity of use proposed in relationship to the site's soils, slopes, woodlands, flood plains, aquifers, natural resources and other natural features.
- (D) The impact of the proposed use on the site's soils, slopes, woodlands, wetlands, flood

plains, aquifers, natural resources and other natural features, in relationship to the degree to which these are protected or destroyed, the tolerance of the resources to development and any adverse environmental impacts.

- (E) The impact of the proposal on the preservation of agriculture and any other land uses which are essential to the public health and welfare.

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

- (A) Failure to commence the public hearing within sixty (60) days of the landowner's request.
- (B) When the Township Board of Supervisors notifies the landowner that it will not adopt the curative amendment.
- (C) When the Township Board of Supervisors adopts another curative amendment which is unacceptable to the landowner.
- (D) When the Township Board of Supervisors fails to act on the request within forty-five (45) days after the close of the last public hearing on the request, unless the time is extended by mutual consent by the landowner and the Township Board of Supervisors.

1403.2 INITIATED BY THE TOWNSHIP

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

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

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

The Township Board of Supervisors, having utilized the procedures as set forth in this Section, may not again utilize said procedure for a thirty-six (36) month period following the date of the enactment of a curative amendment or reaffirmation of the validity of this Ordinance and/or Zoning Map. However, if after the date of declaration and proposal, there is a substantially new duty or obligation imposed upon township by virtue of a change in statute or by virtue of a Pennsylvania Appellate Court decision, Township may utilize the provisions of this Section to prepare a curative amendment to fulfill said duty or obligation.

SECTION 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 Township 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 Township where copies of the proposed amendment may be examined without charge or obtained for a charge not greater than the cost thereof.
- (C) Public notice shall include either the full text of the amendment or the title and a brief summary of the amendment as prepared by the municipal solicitor. If the full text is not included, then a copy of such shall be supplied to the newspaper in which the public notice is published, and an attested copy to the County Law Library.
- (D) In the event substantial changes are made to the proposed amendment, before voting upon enactment, the Township Board of Supervisors shall, not less than ten days prior to enactment, readvertise in one newspaper of general circulation in Township, a brief summary setting forth all the provisions in reasonable detail together with a summary of the changes.

SECTION 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.

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| <p style="text-align: center;">ARTICLE 15 ZONING HEARING BOARD</p> |
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SECTION 1501 MEMBERSHIP OF BOARD

The membership of the Zoning Hearing Board shall consist of five (5) residents of Foster Township appointed by the Foster Township 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 Township 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 Township 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 Township Board of Supervisors. Prior to any vote by the Township Board of Supervisors, the member shall receive notice fifteen (15) days in advance of the date at which it intends to take such a vote. A hearing before the Township Board of Supervisors shall be held in connection with the vote, if the member requests a hearing in writing.

SECTION 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 Township 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 not less than one week prior to the hearing.

Written notice of all hearings before the Board shall be conspicuously posted on the affected property by the owner at least one week prior to the hearing. The owner shall provide the Hearing Board with a notarized affidavit of posting.

Written notice shall be given to the following parties:

- 1. The Zoning Officer.
- 2. The applicant.
- 3. The owner of record of the subject property before the Board, if different than that of the applicant.
- 4. The owner of record of any property which has an adjoining or contiguous property boundary with the subject property before the Board. An adjoining or contiguous property boundary shall be deemed to also include such properties which have any amount of opposite front, rear or sideyard areas including those properties that are separated from the subject property before the Board by a public or private street, road, alley and/or similar right-of-way. In cases of a corner property subject to a hearing before the Board, in

addition to the owners of record with an adjoining or contiguous property boundary, notice shall also be given to any owner of record of any property which has frontage along the intersection of the public or private streets or roads in question.

5. Any party or person who has submitted a written request to receive notification on the subject property.

The applicant shall be responsible for providing the Zoning Hearing Board with the names and addresses of the true and correct owners of record based upon the records contained in the Luzerne County Tax Assessor's Office. While it shall be the intent of the Foster Township Zoning Hearing Board to provide written notice to property owners which have a common side yard, rear yard or opposite frontage to the subject property before the Board, failure to do so, shall not represent a basis for appeal or otherwise invalidate a decision and/or finding of the Zoning Hearing Board.

- C. The Township Board of Supervisors may prescribe reasonable fees with respect to hearings before the Board. Fees for said hearings may include compensation for the secretary, and if applicable, members of the Zoning Hearing Board, notice and advertising costs and necessary administrative overhead connected with the hearing. The costs, however, shall not include legal expenses of the Board or expenses for engineering, architectural or other technical consultants or expert witnesses.
- D. The first hearing shall be held within sixty (60) days from the applicant's request, unless the applicant has agreed in writing to an extension of time. The sixty (60) day time period shall not commence until the applicant has submitted a properly completed application, with all required signatures, supporting information, the names and mailing addresses of parties to receive notice of the hearing, and all required fees. Each subsequent hearing shall be held within forty-five (45) days of the prior hearing, unless otherwise agreed to by the applicant in writing or on the record. Any party aggrieved by the schedule or progress of the hearings may apply to the Court of Common Pleas for relief.
- E. Hearings shall be conducted by the Board or the Board may appoint any member or an independent attorney as a hearing officer. The decision, or where no decision is called for, the findings shall be made by the Board, unless the appellant or applicant, as the case may be, in addition to the Township, agree to waive any decision or findings by the Board and accept the decision or findings of the hearing officer as final. If the decision or findings of the hearing officer are to be accepted as final, all parties to the hearing must agree to such stipulation at the outset of the hearing.
- F. The parties to the hearing shall be the Township, any person affected by the application who has made a timely appearance of record before the Board, and any other person including civic or community organizations permitted to appear by the Board. The Board shall have power to require that all persons who wish to be considered parties to the hearing enter appearances in writing on forms provided by the Board for such purpose.

- G. The presiding chairman or acting chairman of the Board or hearing officer shall have the power to administer oaths and issue subpoenas to compel attendance of witnesses and the production of relevant documents and papers, including witnesses and documents requested by parties to the hearing.
- H. The parties to the hearing shall have the right to be represented by legal counsel and shall be afforded the opportunity to respond and present evidence and arguments and to cross-examine adverse witnesses on all relevant issues.
- I. Formal rules of evidence shall not apply, but irrelevant, immaterial or unduly repetitious evidence may be excluded.
- J.. The Board or the hearing officer, as the case may be, shall keep a stenographic record of the proceedings. The appearance fee for a stenographer shall be shared equally by the applicant and the Board. The cost of the original transcript shall be paid by the Board if the transcript is ordered by the Board or hearing officer, or shall be paid by the person appealing from the decision of the Board, if such appeal is made and in the event the cost of additional copies shall be paid by the person requesting such copies. In other cases the party requesting the original transcript shall bear the cost thereof.
- K. The Board, collectively or individually, or the hearing officer, shall not communicate directly or indirectly with any party or his representatives in connection with any issue before the Board involved except upon notice and opportunity for all parties to participate, shall not take notice of any communication, reports, staff memoranda, or other materials, except advice from its solicitor, unless all parties are afforded an opportunity to contest the material so noticed and shall not inspect the site or its surroundings after the commencement of hearings with any party or his representative unless all parties are given an opportunity to be present.
- L. The Board or the hearing officer, as the case may be, shall render a written decision or, if no decision is called for, make written findings on the application within forty-five (45) days after the last hearing before the Board or hearing officer. If the application is contested or denied, each decision shall be accompanied by findings of fact and conclusions based thereon, together with the reasons therefor. Conclusions based on any provisions of the Ordinance or any other ordinance, rule or regulation, shall contain a reference to the provisions relied upon and the reasons why the conclusion is deemed appropriate in light of the facts found. If the hearing is conducted by a hearing officer, and there has been no stipulation that his decision or findings are final, the Board shall make his report and recommendations available to the parties of record within forty-five (45) days. The parties shall be entitled to make written representations thereon to the Board prior to final decision or entry of findings, with the Board's decision entered no later than thirty (30) days after the report of the hearing officer. If the Board fails to commence, conduct or complete the required hearing as provided for under Section 1506(D), the decision shall be deemed to have been rendered in favor of the applicant, unless the applicant has agreed in writing or on the record to an extension of time. If a decision has been rendered in favor of the applicant because of the failure of the Board to meet or render a decision as herein above provided, the Board shall give public notice of said decision within ten (10) days from the last day it could have met to render a decision in the same

manner as provided under Section 1506(A) and written notice of the decision shall be mailed to those parties identified under Section 1506(B). If the Board fails to provide such notice, the applicant may do so. Nothing contained within this Section shall prejudice the right of any party opposing the application to appeal the decision to a court of competent jurisdiction.

- M. In any appeal of an enforcement notice under Section 1304.1 of this Ordinance to the Zoning Hearing Board shall require that the Zoning Officer and/or Township provide its evidence first to the Board regarding the basis, nature and supporting information regarding the subject enforcement notice. Upon the conclusion of the same, the appealing party shall provide the Board with his/her evidence in contesting the subject enforcement notice. Any filing fees paid by a party to appeal an enforcement notice to the Zoning Hearing Board shall be returned to said party, if Zoning Hearing Board or any subsequent Court rules in favor of the appealing party.
- N. The final decision or, where no decision is called for, the findings shall be rendered by the Zoning Hearing Board at a public hearing and/or public meeting. A copy of the written decision or findings shall be delivered to the applicant personally or mailed to him not later than the day following the date of the Board's decision or findings. The Zoning Hearing Board shall provide by mail or otherwise, to all persons who have filed their name and address with the Board, not later than the last day of the hearing, a statement of brief notice of the decision or findings and a statement of the place and at which a copy of the full decision or findings may be examined.

SECTION 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 Township 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 (30) days after the effective date of the Ordinance subject to the appeal.
- C. Appeals from the determination of the zoning officer, including but not limited to, the granting or denial of any permit, or failure to act on the application therefor, the issuance of any cease and desist order, the revocation of a zoning permitted/or building permit 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 may be referred to the Planning Commission for its review, comments and recommendations prior to final action by the Board. The Board shall grant approval only upon the determination that the proposed use and/or development conforms with all applicable standards and provisions within this Ordinance and the following expressed standards and criteria:

1. The proposed use shall not jeopardize Community Development Objectives as the Foster Township Comprehensive Plan, including any updates, revisions and/or amendments thereto.
2. Public services and facilities such as streets, sewers, water, police, and fire protection shall be adequate for the proposed use and/or development.

3. Existing streets and proposed access to the site shall be adequate regarding the width and pavement for emergency service vehicles.
4. Existing streets and proposed access to the site shall be adequate to accommodate anticipated traffic volumes in a manner that avoids undue traffic congestion, and provides for the safety and convenience of pedestrian and vehicular traffic. The proposed use shall not result in unsafe or dangerous traffic conditions.
5. The proposed use shall be compatible with adjoining development and the character of the zoning district and neighborhood in which it is proposed to be located. The nature and intensity of the operation of the proposed use shall be considered regarding its compatibility or lack thereof.
6. The proposed use shall not substantially impair the value of other property in the neighborhood where it is proposed to be located.
7. The proposed use and/or development shall not be more objectionable in its operations in terms of noise, fumes, odors, vibration, or lights than would be the operations of any permitted use in the subject Zoning District.
8. The submission of any reports and/or studies, required by the Zoning Hearing Board within the context of the definition "Impact Analysis" as contained 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 Zoning Hearing Board, in requiring such reports and/or studies.
9. The proposed use and/or development shall not be injurious to the public interest.

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

SECTION 1511 PARTIES APPELLANT BEFORE THE BOARD

Appeal and/or applications for hearings before the Zoning Hearing Board pursuant to those matters contained within Section 1509 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 (30) days after the notice of the Board's determination is issued. Failure to do so within the prescribed thirty (30) day time period shall preclude any further appeal of the Board's decision.

SECTION 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.

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| <p style="text-align: center;">ARTICLE 16 PLANNED RESIDENTIAL DEVELOPMENTS</p> |
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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 DEP 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, or within one hundred eighty (180) days after the date of filing the application, whichever occurs first, 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 JURISDICTION AND LEGAL REMEDIES

1615.1 JURISDICTION

District Justices shall have initial jurisdiction over proceedings brought under Section 1615.2.

1615.2 LEGAL REMEDIES

- A. Any person, partnership or corporation who or which has violated the planned residential development 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 (\$500.00) dollars, plus all court costs, including reasonable attorney fees incurred 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.

- B. 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.
- C. 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.