

Ordinance #2009-07

ZONING ORDINANCE

of

EAST PENN TOWNSHIP

**Carbon County
Pennsylvania**

Adopted: October 5, 2009

IN THE COURT OF COMMON PLEAS OF CARBON COUNTY, PENNSYLVANIA

CIVIL DIVISION

CHARLES W. MESSINA,
AGNES MESSINA,
LEHIGH ASPHALT PAVING &
CONSTRUCTION CO.

Appellants

v.

EAST PENN TOWNSHIP,

Appellee

No. 09-3331

George J. Ozorowski, Esquire
Robert S. Frycklund, Esquire
James R. Nanovic, Esquire

Counsel for Appellants
Counsel for Interveners
Counsel for Appellee

ORDER

AND NOW, this 31st day of October, 2013, §1018 and 1019(A)(4) of the Zoning Ordinance of 2009, enacted October 5, 2009 are void and of no effect; the provisions of §1018 and 1019(A)(4) of the prior existing Ordinance of 1996 remain in full force and effect.

All other provisions of the Zoning Ordinance of October 5, 2009 survive as enacted.

By the court:



S.J.

ORDINANCE NO. 2009 - 07

ZONING ORDINANCE OF EAST PENN TOWNSHIP

WHEREAS, East Penn Township had adopted a Zoning Ordinance of East Penn Township in July 22, 1996; and

WHEREAS, the Zoning Ordinance of East Penn Township was amended on three (3) occasions by Ordinance 2000-2 enacted on May 22, 2000 and Ordinance 2001- enacted on December 3, 2001; and Ordinance 2005-3 enacted on May 2, 2005.

WHEREAS, the Zoning Ordinance of East Penn Township has been challenged and the Board of Supervisors have decided to readopt these ordinances in their entirety; and

WHEREAS, the Board of Supervisors wish to make an amendment to the Zoning Ordinance as adopted as set forth below.

NOW, THEREFORE, the Board of Supervisors of East Penn Township hereby enacts and ordains as follows:

1. The Zoning Ordinance of East Penn Township attached hereto as Exhibit "A", along with the amendments to the Zoning Ordinance of East Penn Township attached hereto as Exhibits "B", "C" and "D" are hereby enacted and ordained.

2. Section 1018 of the Zoning Ordinance of East Penn Township is hereby repealed and replaced with the following language.

1018 NONCONFORMITIES

1018.A. Purposes. Within the zoning districts established by this Ordinance, as amended, there exists and will exist certain nonconformities which, if lawful before these Ordinances were passed or amended, may be continued subject to certain regulations. Ordinarily these

nonconforming conditions would be prohibited, regulated or restricted by these ordinances and amendments.

1018.B. Registration of Nonconforming Uses and Structures.

The Zoning Officer may identify and a register nonconforming uses, structures and lots in the Township of East Penn, as an aid to the enforcement of this Ordinance. Failure by the Zoning Officer to identify and register a nonconforming use or structure is not to be construed as recognition that the use, structure or lot is in conformance with the Ordinance.

1018.C. Continuation. Any lawful nonconforming use, structure or lot may be continued, maintained, improved and repaired, provided it conforms to the remainder of this section.

1018.D. Changes in Construction and Size.

1. Nonconforming Structure.

- a. A nonconforming structure may be altered, reconstructed or enlarged provided that such alteration, reconstruction or enlargement does not increase the nonconformance or the nonconforming part of the structure.
- b. In the case of a nonconforming structure which is used by a nonconforming use, such alteration, extension or enlargement shall also meet the requirements of Section 1018.D.3.

2. Nonconforming Lots.

a. **Single Family Dwellings.** In any zoning district where single family dwellings are permitted, a single family dwelling and customary accessory buildings may be constructed on any nonconforming single lot of record at the date of adoption or amendment of this Ordinance subject only to the following requirements:

- 1) The building may not exceed two stories.
- 2) The building must house a permitted use.
- 3) Parking and loading areas must conform to this Ordinance.

- 4) The front, side and rear yards must conform to this ordinance.
 - 5) A side yard clearance of at least 20 feet must be maintained where the lot abuts a residential district.
- b. Paragraph a above only applies to nonconforming lots whose owner does not own adjacent property. When adjacent property with continuous frontage is owned at the time of adoption of this Ordinance, the entire parcel of land will be considered as a single entity. This parcel of land may not be used, sold or subdivided in a manner which creates a lot whose width or area does not meet the requirements of this Ordinance.
3. Nonconforming Use. Nonconforming uses shall not be altered, reconstructed, extended or enlarged, except in accordance with the following provisions:
- a. Such alteration, reconstruction, extension or enlargement shall be permitted only by special exception.
 - b. Such alteration, reconstruction, extension or enlargement shall be only upon the same lot which existed when the use became nonconforming.
 - c. Any increase in volume or area of the nonconforming use shall not exceed an aggregate of more than 25% percent of said volume or floor area during the life of the nonconformity.
 - d. Only the portion of the ground area of any lot upon which a nonconforming use exists shall be considered in computing the area occupied by such a use. The computations of volume and area, both to establish the extent of the nonconformity, and to determine the limits of its expansion shall be separate.

1018.E Restoration. A nonconforming building or any building containing a nonconforming use destroyed by fire, explosion, flood or other phenomenon, or legally condemned, may be reconstructed and used for the same nonconforming use, provided that reconstruction of the building shall be commenced within one year from the date the building was destroyed or condemned

and shall be completed within one year of the date commenced. An Application must be made for a building permit to rebuild; the fee shall be waived.

1018.F Ownership. Whenever a nonconforming use, structure or lot changes ownership, a previously lawful nonconforming use may be continued by the new owner. The Zoning Officer may require a new owner re-register the nonconforming use with the Zoning Officer.

1018.G Abandonment.

1. If a nonconforming use of a building or land is discontinued, razed or removed or abandoned for 365 consecutive days, subsequent use of such building or land shall conform with the regulations of the district in which it is located.

2. The act of abandonment and the intent to abandon shall be presumed to commence on the date when customary efforts to continue the use (operation, lease, sale, etc.) cease.

1018.H Changes in Use.

1. No structure or land once changed to a conforming use shall be permitted to revert to a nonconforming use.
2. A nonconforming use may be changed to another nonconforming use only if permitted as a Special Exception by the Zoning Hearing Board after the following conditions are met:
 - a. The applicant shall show that the nonconforming use cannot reasonably be changed to a conforming use.
 - b. The applicant shall show that the proposed change will be equally or less objectionable in external effects that the existing nonconforming use with regard to.
 - 1) Traffic generation and congestion (including truck, passenger car, bicycle and pedestrian traffic),
 - 2) Noise, smoke, dust fumes, vapors, gases, heat, odor, glare or vibration,
 - 3) Storage and waste disposal, and

4) Appearance

1018.I. District Changes. Whenever the boundaries of a district are changed so as to transfer an area from one district to another, the foregoing provisions shall also apply to any nonconforming uses or structures existing within the district to which the area was transferred.

3. Section 1019 (A)(4) shall be revised to read as follows:

Minimum lot size. The minimum lot size for a surface mining operation shall be ten (10) acres.

4. This Ordinance shall take effect upon its enactment.

Duly enacted and ordained this 5th day of October, 2009, by the Supervisors of East Penn Township, Carbon County, Pennsylvania, in lawful session duly assembled.

BOARD OF SUPERVISORS OF
EAST PENN TOWNSHIP

Mary Anne Leavitt
Secretary

BY: Gary P. Kuehna
Chairman

Ordinance # 96-44

ZONING ORDINANCE

OF

EAST PENN TOWNSHIP

**CARBON COUNTY
PENNSYLVANIA**

1996

6/20/96

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INTRODUCTION

The East Penn Township Zoning Ordinance is a legal document which places restrictions on the use and development of land in the Township for the purpose of achieving an orderly land use pattern and for the protection of the public health, safety and general welfare.

The Ordinance divides the Township into districts having different regulations relating to the use of buildings and land, setbacks from the road, area of lots, parking and loading requirements, and sign regulations.

This Ordinance has been developed by the East Penn Township Planning Commission and the East Penn Township Board of Supervisors.

The regulations in this Ordinance are not retroactive. Existing business and industry can continue to operate and expand and ownership can be transferred regardless of the zoning district in which it is located. In addition, owners of lots which are smaller than the minimum requirements specified in the Ordinance can build on them as specifically provided for in the Ordinance. Lots created after the adoption of the Ordinance, however, must be in conformity with its requirements.

It is recognized that the Zoning Ordinance cannot satisfy the needs and individual interests of every citizen in the Township. This Ordinance may be amended further should changed conditions warrant.

The Township Planning Commission is the official body designated to monitor future change and to make recommendations to the Township Supervisors. Accordingly, it is hoped that individual citizens will work with the Planning Commission in bringing new development possibilities in the Township to light and in suggesting improvements to this Ordinance and the overall Comprehensive Plan.

ZONING ORDINANCE
EAST PENN TOWNSHIP
CARBON COUNTY, PENNSYLVANIA

BE IT ORDAINED by the Board of Supervisors, East Penn Township, Carbon County, Pennsylvania, pursuant to the authority conferred by the Pennsylvania Municipalities Planning Code, Act 247 of 1968, Articles VI, IX, and the amendments thereof and supplements thereto, as follows:

ARTICLE 1

TITLE, PURPOSE, OBJECTIVES AND APPLICATION REGULATIONS

100 TITLE

"An Ordinance to limit and restrict to specified districts or zones, and to regulate therein, buildings and structures according to their construction and nature of land and the extend of their use, and the nature and extend of the uses of land, in East Penn Township, Carbon County, Pennsylvania hereinafter referred to as the Township, and providing for the administration and enforcement of the provisions therein contained and fixing penalties for the violation thereof."

101 SHORT TITLE

This Ordinance shall be known and may be cited as "The East Penn Township Zoning Ordinance."

102 DECLARATION OF PURPOSE

The provisions of this Zoning Ordinance are designed for the following purposes:

- .01 To promote and protect the health, safety, and general welfare of the community, while encouraging sound and coordinated development that provides for proper density of population, ample and safe transportation systems, community amenities, sanitation provisions and harmony with the natural surroundings.
- .02 To prevent unfavorable conditions such as blight, overcrowding, pollution, health hazards, obnoxious odors, noises and sights, floods, fires and other hazards. This Zoning Ordinance has been formulated with consideration for all aspects of the Township including existing development, natural restrictions and the suitability of various parts for various uses and structures.

103 APPLICATION OF REGULATIONS

.01 Conformity With Use Regulations

Except as hereinafter provided, no building or structure or part thereof and no lot or land or part thereof shall hereafter be used, except in conformity with the use regulations herein prescribed. Any lawful use that does not conform to the use regulations of this Ordinance shall be deemed a nonconforming use.

.02 Conformity With Building Regulations

Except as hereinafter provided, no building or structure or part thereof shall hereafter be erected, structurally altered, enlarged or rebuilt, except in conformity with the lot dimension, yard, court, coverage, height, and density regulations herein prescribed. Any building or structure that does not conform to such regulations, hereinafter referred to as the building regulations of this Ordinance, shall be deemed a nonconforming structure, irrespective of the use to which it is put.

.03 Continuation of Existing Uses

Any legal established existing use of a building or structure, lot or land, or part thereof, which use constitutes a nonconforming use under the provisions of this Ordinance, may be continued.

**ARTICLE 2
DEFINITIONS**

200 DEFINITION OF WORDS

Certain words and terms are used in this Zoning Ordinance for the purpose thereof and are defined as follows:

- .01 Unless the context clearly states an alternative or different meaning, words used in the present tense include the future: singular includes the plural, and the plural the singular.
- .02 The word "PERSON" includes a profit or nonprofit corporation, company, institution, partnership, or individual.
- .03 The word "SHALL" is mandatory, and not directory; and the word "MAY" is permissive.
- .04 The word "TOWNSHIP" means East Penn Township, Carbon County, Pennsylvania.
- .05 The initial "MPC" means Pennsylvania Municipalities Planning Code.
- .06 Any word, term or phrase used in this Ordinance, but not specifically defined herein, shall be given their normal and customary meaning as found in the Wester's New Collegiate Dictionary.
- .07 The masculine gender shall include the feminine and neuter, and vice-versa.
- .08 The initial "DEP" means Department of Environmental Protection.

201 DEFINITION OF TERMS

ACCESSORY USE OR STRUCTURE. A subordinate use or structure customarily incidental to, and located on the same lot occupied by the main use or building. The term "ACCESSORY STRUCTURE" may include, but is not limited to, a private garage, garden shed or barn, a private playhouse, a private greenhouse, a private swimming pool, and heating and power facilities serving on-site uses.

ADULT BOOK STORE. A commercial establishment having as a substantial or significant portion of its stock in trade, books, magazines, photographs or other materials which are distinguished or characterized by their emphasis on matter depicting, describing or relating to "Specific Sexual Activities" or "Specific Anatomical Areas" or an establishment with a segment or section devoted to the sale or display of such material.

ADULT MOTION PICTURE THEATER. An establishment used for presenting motion pictures distinguished or characterized by an emphasis on matter depicting, describing or relating to "Specific Anatomical Areas" for observation by patrons therein.

AGRI-BUSINESS. A business whose products are sold primarily to farmers. Examples of such products include, but are not limited to: fertilizer, seed, animal and poultry feed, farm machinery, and farm equipment.

AGRICULTURE. The buildings and activities relating to the raising and keeping of field, truck, and tree crops. For purposes of this Ordinance the term "AGRICULTURE" does not include animal husbandry.

AIRPORT OR AIR STRIP. A lot, parcel or tract of land used for the taking off and landing of airplanes, jets, ultra-light aircraft or other similar aircraft, and appurtenant areas which are designed, maintained or used for airplane support facilities such as maintenance, refueling and parking.

ALLEY. A public or private thoroughfare, with a right-of-way of 20 feet or less which affords only a secondary means of access to abutting property and not intended for general traffic circulation.

AMUSEMENT ESTABLISHMENT. A place of amusement, such as bowling lanes, miniature golf courses, driving range, chip and putt, theaters, or similar commercial recreation establishments.

AMUSEMENT PARK. A commercially operated park with various devices for entertainment and booths for the sale of food and drink.

ANIMAL HUSBANDRY. The raising and keeping of any member of the animal kingdom as a business enterprise, not including household and farm pets or 4H type projects.

ANTENNA. Any arrangement of wires or metal rods used in the sending and/or receiving of electro magnetic waves.

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

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

APPOINTING AUTHORITY. The Board of Supervisors of East Penn Township.

AUTHORITY. A body politic and corporate created pursuant to the Act of May 2, 1945 (P.L. 382, No. 164) known as the "Municipalities Authorities Act of 1945."

AUTOMOTIVE GAS STATION. A place where automotive fuels, oils and a limited selection of automotive accessories are sold to the public at retail.

AUTOMOTIVE AND MACHINERY SALES. Buildings and areas for the display, sale, or rental of new or used vehicles in operable condition.

AUTOMOTIVE AND MACHINERY REPAIR STATION. Buildings and land where automotive fuels, automotive parts, and supplies are sold at retail and where repairs on small engines, farm related machinery and other vehicles including painting, body and fender work are conducted within an enclosed building.

AUTOMOTIVE SERVICE STATION. Buildings and land areas where automotive fuels, oil, grease, batteries, tires or automotive accessories are supplied and dispensed at retail and where minor repairs are conducted. Uses permissible at a service station do not include body work, straightening of body parts, painting, welding, or other work involving noise, glare, fumes, smoke, or other similar characteristics.

BANK. An establishment for the custody, loan, exchange or issue of money, for the extension of credit and for the facilitating of the transmission of funds. This may include automatic teller machines and drive-in window service

BASEMENT. A floor level partly or completely below grade.

BED AND BREAKFAST FACILITY OR BOARDING HOUSE. The use and occupancy of a single family detached dwelling for accommodating guests for rent in less than eight bedroom units. A bedroom unit shall not include kitchen facilities.

BLOCK. A tract of land or a lot or group of lots, bounded by streets, public parks, or parkways, railroad rights-of-way, watercourse or body of water, subdivided land, or a boundary line or lines of the Township.

BLOCK FRONTAGE. That portion of a block which abuts a single street.

BOARD. The Zoning Hearing Board of East Penn Township unless otherwise stipulated or indicative by reference.

BOARD OF SUPERVISORS. The Board of Supervisors of East Penn Township.

BUFFER YARD. A continuous strip of land, either landscaped or green space, clear of all buildings, structures, parking areas, outdoor storage areas and detention ponds, or any use other than open space. A buffer yard may include a street or

driveway connecting an access point with the interior side of a buffer yard by the most direct route, but shall not include any recreation area or a private street or an existing or future public street right-of-way.

BUILDING. A structure or object constructed on, erected on, placed on, located on, or affixed to the ground, with a roof supported by columns or walls. Structures divided by unpierced masonry division walls or a State-conforming fire wall extending from the ground through the roof shall be deemed to be separate buildings. A structure meeting the definition of building shall be construed to be a building whether or not it has been affixed to the ground by heretofore existing conventional methods; specifically, the fact that an object or structure is located on or placed on the ground by the use of skids or similar means shall not exempt or exclude the structure or object from being considered a building.

BUILDING, AREA OF. The horizontal area measured around the outside of the foundation walls and of the floors or roofed porches and roofed terraces inclusive, and including the area of accessory buildings, if any.

BUILDING COVERAGE. The percentage of a lot covered by building area.

BUILDING MATERIALS. Any materials used for the manufacture or repair of structures.

CABARET. A club, bar, tavern, theater, hall or similar place which features topless or bottomless dancers, entertainers or employees, strippers, simulated sex acts, live or actual sex acts, or similar entertainers or entertainment.

CAR WASH. A building or portion thereof used for the manual or mechanical washing of automobiles and other similar vehicles.

CEMETERY. A lot, parcel, tract, building or structure used for burial of deceased humans or animals.

CHURCH. A building or group of buildings, including customary accessory buildings thereto, designed, intended or used for public worship. The term "CHURCH" shall include chapels, cathedrals, temples, mosques, Sunday schools, synagogues and similar designations.

CLUSTER DEVELOPMENT. A planned Cluster Development shall consist of single family detached dwellings and/or single family semi-detached dwellings on a tract of land not less than 30 contiguous acres under one common ownership.

COMMERCIAL STABLE AND/OR RIDING ACADEMY. A building or buildings used for the commercial sheltering, feeding, training and riding of equestrian animals.

COMMERCIAL VEHICLE. That licensed or unlicensed vehicle or

trailer in excess of 26,000 pounds gross vehicle weight as determined by the manufacturer or by the Commonwealth of Pennsylvania for the purpose of licensing, whichever is the greater. This term shall not include farm-related vehicles.

COMMON OPEN SPACE. A parcel or parcels of land or an area of water, or a combination of land and water within a development site and designed and intended for the use or enjoyment of residents of a development, not including streets, off-street parking areas, and areas set aside for public facilities.

COMMUNITY CENTER. A recreation or educational center open to the public and operated by a nonprofit organization or governmental entity.

COMMUNITY SERVICE BUILDING. Such as fire company, ambulance, library.

COMPREHENSIVE PLAN. The Comprehensive Plan for East Penn Township adopted by the Township Supervisors.

CONDITIONAL USE. Certain specified uses which are allowed or denied by the Board of Supervisors after review by the Planning Commission pursuant to express standards and criteria set forth in this Ordinance.

COUNTY. Any county of the second class A through eight classes.

COURTYARD. A space either on the ground or above, excepting a main roof, situated on the lot with a building and which is unoccupied and open to the sky, and not a front yard, or rear yard.

CULTURAL CENTER. A building and/or land open to the public which contains exhibits of a cultural interest, such as a museum, art gallery, nature study, etc.

DAY CARE CENTER. A state licensed establishment for the care of children; a facility designed, maintained and used for the limited (only during the day) care of adults who cannot care for themselves due to age or physical or mental disability. The term "DAY CARE CENTER" shall include nursery schools.

DECISION. Final adjudication of any board or other body granted jurisdiction under any land use ordinance.

DECK. That platform elevated more than eight inches from grade extending horizontally from a building or structure.

DETERMINATION. Final action by an officer, body or agency charged with the administration of any land use ordinance or applications thereunder, except (1) the governing body; (2) the zoning hearing board; or (3) the planning agency, only if and to the extent the planning agency is charged with final decision of preliminary or final plans under the subdivision

and land development ordinance or planned residential development provisions. Determinations shall be appealable only to the boards designated as having jurisdiction for such appeal.

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

DEVELOPMENT PLAN. The provisions for development, including a planned residential development, a plat of subdivision, all other structures, intensity of use or density of development, streets, ways and parking facilities, common open space and public facilities. The phrase "provision of the development plan" when used in this act shall mean the written and graphic materials referred to in this definition.

DWELLING. A building arranged, intended or designed to be occupied as a residence.

MULTIPLE DWELLING. A single building or group of attached dwelling units intended and designed to be occupied by three or more families living independently of each other as separate housekeeping units.

SINGLE FAMILY ATTACHED DWELLING. A building, commonly known as a townhouse, designed for and occupied exclusively as a residence for only one family and having (1) only one dwelling unit from ground to roof, (2) independent outside access, (3) at least two other dwellings built in conjunction therewith and (4) any portion of one or two walls in common with an adjoining dwelling.

SINGLE FAMILY DETACHED DWELLING. A building, on a lot, designed and occupied exclusively as a residence for one family, and which has no part of wall in common with an adjacent building.

SINGLE FAMILY SEMI-DETACHED DWELLING (TWIN). A building or structure having only one dwelling unit from ground to roof and only one wall in common with another dwelling unit.

TWO FAMILY DETACHED DWELLING (DUPLEX). A single building intended and designed to be occupied by two families living independently of each other as separate housekeeping units.

DWELLING UNIT. One or more rooms with provisions for cooking, living, sanitary and sleeping facilities arranged for the use of one family. The term "DWELLING UNIT" shall apply to commercial and industrial uses as follows: When an on-lot sewage disposal system is utilized, a factor of 250 gallons of sewage per day per dwelling unit shall be applied for the

purpose of calculating the equivalent number of dwelling units for a commercial or industrial use. When this calculation results in a fractional number, then that fraction shall be construed as a full dwelling unit.

EASEMENTS. A liberty, privilege or advantage which one has in the lands of another for a precise and definite purpose, subordinate to but not inconsistent with the owner's general property rights.

EDUCATIONAL INSTITUTION. A public or private school, academy or college approved by the Pennsylvania Department of Education. The term "EDUCATIONAL INSTITUTION" shall not include nursery schools, day care centers or Sunday schools.

FAMILY. One or more persons related by blood, marriage, adoption or foster relationship, living together as a single housekeeping unit; or a group of not more than five unrelated persons who are living together in a single dwelling unit and maintaining a common household with a single cooking facility. The term "FAMILY" shall not include the occupants of a clubhouse, hotel, motel, fraternity house, dormitory, or bed and breakfast facility.

FARM RELATED VEHICLE. Those vehicles used exclusively in the production, harvesting, or transportation of farm products or farm animals produced, grown or raised within the Commonwealth of Pennsylvania.

FINANCIAL INSTITUTION. An establishment such as, but not limited to, banks, trust companies (excluding automatic teller machines and drive-in window service), credit agencies, investment companies, brokers and dealers of commodities and security and commodity exchanges.

FLOOR AREA, NET. The total floor area designated for tenant occupancy and exclusive use, including basements, mezzanines, and upper floors, if any.

FLOOR AREA RATIO (FAR). The gross floor area of all buildings on a lot divided by the gross land area of the lot.

FORESTRY. Developing, caring for or cultivating woodlands; the management of growing timber for lumber or commercial wood by-products.

FUNERAL HOME. A building or part thereof, approved by the State Board of Funeral Directors wherein a licensed funeral director conducts the professional practice of funeral directing, including the preparation, care, and funeral services for the human dead.

GARAGE. A building or part thereof used for the storage or parking of one or more vehicles.

GARAGE, PARKING. A garage for the convenience of the general

public in which no servicing, repairs, washing, or reconditioning of motor vehicles is carried on.

GARAGE, PRIVATE. An accessory garage maintained primarily for the convenience of the occupant or occupants of the main building and in which no business or other use is carried on and no service is rendered to the general public.

GOVERNING BODY. The Board of Supervisors of East Penn Township.

GROCERY STORE. A retail store selling a variety of food and other products.

HEIGHT OF A STRUCTURE. The vertical distance from the average finished grade at the foundation corners of the building or structure, to the highest point of the building or structure excluding a chimney or other similar structure listed in Section 1003.

HISTORIC FACILITIES. All historic and prehistoric sites, districts, buildings, structures, and objects eligible for inclusion in the National Register of Historic Places.

HOMEOWNERS ASSOCIATION. Any incorporated non-profit organization operating under recorded land agreements through which (1) each lot and/or home owner in a planned unit or other described land area is automatically a member and (2) each lot is automatically subject to a charge for a proportionate share of the expenses for the organization's activities, such as maintaining a common property, and (3) the charge if unpaid becomes a lien against the property.

HOME OCCUPATION. A business or office conducted in the dwelling unit by members of the resident family provided: That not more than three persons are employed who are not members of the family and that such persons shall be employed in the dwelling unit only; that not more than one-half of the area of one floor, or an entire basement shall be used for such purposes; that signs indicating products made or services rendered shall be in accord with this Ordinance; that adequate space for parking and loading shall be provided; that there shall be no change in the outside appearance of the building or premises or other visible evidence of the conduct of such home occupation other than a sign as permitted by this Ordinance.

HOSPITAL. A building used for the diagnosis, treatment or other care of human ailments, unless otherwise specified. A hospital shall be deemed to include a sanatorium, convalescent home, nursing home, rest home, personal care home or other building with an equivalent appellation.

HOTEL. A building or part thereof which has a common entrance, common heating system, and general dining room, living and sleeping rooms designed to be occupied by

individuals or groups of individuals for compensation.

HOUSEHOLD AND FARM PETS. Those animals that are kept for pleasure or companionship.

INDUSTRY. Manufacturing and/or processing of goods and/or products.

INFORMATION PLAZA. A building and its appropriate access and parking areas devoted exclusively to informing motorists of public and semi-public facilities and private establishments through the use of advertising and public information signs located entirely within the building.

JUNK. Any worn-out or discarded material whether usable or not, including, but not limited to, old metal, machinery, or its parts, abandoned automobiles or other vehicles, and damaged automobiles or other vehicles whether power operated or otherwise and whether or not in usable condition.

JUNKYARD. Shall mean any place where any junk is stored, bought, sold, traded, disposed of, or accumulated.

KENNEL. Any establishment equipped with pens, yards, runways, or other appurtenances specifically designed or intended for the breeding or boarding of dogs or similar animals with the intent of producing gain or profit. Any property harboring five or more adult dogs (over six months of age) or similar animals.

LABORATORY. A place devoted to experimental study in any science, or to the testing and analysis of drugs, chemicals, etc.

LAND DEVELOPMENT. Any of the following activities:

1. The improvement of one lot or two or more contiguous lots, tracts or parcels of land for any purpose involving:
 - 1.1 A group of two or more residential or nonresidential buildings, whether proposed initially or cumulatively, or a single nonresidential building on a lot or lots regardless of the number of occupants or tenure; or
 - 1.2 The division or allocation of land or space, whether initially or cumulatively, between or among two or more existing or prospective occupants by means of, or for the purpose of streets, common areas, leaseholds, condominiums, building groups or other features.
2. A subdivision of land.
3. Development in accordance with section 503 (1.1) of the

MPC.

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

LAND USE ORDINANCE. Any ordinance or map adopted pursuant to the authority granted in Articles IV, V, VI and VII of the MPC.

LAUNDROMAT. A self-service laundry and/or drycleaning establishment.

LOADING SPACE. An off-street area used for loading and unloading of goods.

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. This term includes the word "plot".

LOT AREA. The total horizontal area included within lot lines. (Excluding street or street right-of-way).

LOT, CORNER. A lot at the intersection of and fronting on two or more streets.

LOT COVERAGE. The percentage of the lot area that is occupied by an impervious area such as buildings, macadam, cement, etc.

LOT, DEPTH OF. The level distance between the mid point of the front lot line to the mid point of the rear lot line.

LOT, INTERIOR. Any lot other than the corner lot.

LOT LINE, FRONT. The street line at the front of a lot. On a lot bounded on more than one side by a street, the owner shall specify the front lot line on the plot plan when the initial building permit application is submitted.

LOT LINE, REAR. The lot line, or lot lines opposite to the front lot line.

LOT LINE, SIDE. Any lot line not a rear lot line or a front line.

LOT, THROUGH. A lot extending from one street to another.

LOT, WIDTH. The straight line distance between the side lot lines, measured at the front yard building line.

LOTS ABUTTING MORE THAN ONE STREET. All uses and/or buildings shall observe the setbacks and yard requirements along each

street that the lot abuts. When more than one street abuts the lot, the owner shall specify the front lot line on the plot plan when the initial building permit application is submitted.

MAIN USE OR BUILDING. The principal or primary use or building on the lot.

MASSAGE ESTABLISHMENT. Any place or establishment where a massage is available. A massage being construed to mean the performance of manipulative exercises upon the human body of another by rubbing, kneading, stroking, or tapping with the hand or hands or with any mechanical or bathing device with or without supplementary aids, including, but not by way of limitation, a massage school.

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 OR DENTAL CLINIC. Office or clinic for medical or dental examinations or treatment of persons, as outpatients, including laboratory incidental thereto.

MEMBERSHIP CLUB. A building, structure, lot or land used as a private club by a fraternal or social organization, excluding club for gunning, trap shooting, motor vehicle racing, motorcycle competition, or other similar purposes.

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

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

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

MOTEL. A building, or group of buildings, whether detached or in connected units, used as individual sleeping units, designed primarily for transient automobile travelers, and provided with accessory off-street parking facilities. The term "MOTEL" includes buildings designed as tourist courts, motor lodges, auto courts, and other similar appellations, but shall not be construed to include mobile home parks and

trailer camps.

MUNICIPAL ENGINEER. A professional engineer licensed as such in the Commonwealth of Pennsylvania, duly appointed as the engineer for a municipality, planning agency or joint planning commission.

MUNICIPALITY. Any city of the second class A or third class, borough, incorporated town, township of the first or second class, county of the second class A through eighth class, home rule municipality, or any similar general purpose unit of government which shall hereafter be created by the General Assembly.

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

NONCONFORMING STRUCTURE. A structure or part of a structure manifestly not designed to comply with the applicable use or extent of use provisions in a 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 a zoning ordinance or amendment heretofore or hereafter enacted, where such use was lawfully in existence prior to the enactment of such ordinance or amendment, or prior to the application of such ordinance or amendment to its location by reason of annexation.

NURSERY (GREENHOUSE). A lot, parcel, tract, building, structure or part thereof used for the raising and distribution/sales of trees, flowers, house plants and other similar plants.

OCCUPANCY. Use of a building or lot for a specific purpose.

OFFICE. A commercial establishment or use involving clerical, professional or administrative work (one or more within the same building) which may include the provisions of customer services but not on-premise sales of a product or merchandise, unless incidental to the primary office use. The term "OFFICE" shall not include retail or industrial uses.

OFFICIAL MAP. A map adopted by Ordinance pursuant to Article IV of the MPC.

PARK. An area which is predominantly common open space, is

used primarily for active or passive recreation, and is not used for a profit-making purpose.

PARKING AREA. A lot or part thereof used for the parking of motor vehicles, with or without the payment of rent or charges in money or other consideration. Unroofed parking areas are permissible in required front yards or side yards abutting a street and in portions of side yards not otherwise required for a buffer yard.

PARKING SPACE. A stall or berth which is arranged and intended for parking of one motor vehicle in a garage or parking area.

PATIO. That unroofed platform elevated eight inches or less from grade extending horizontally from a building or structure.

PERMIT, BUILDING. A certificate issued by a designated Township official for the construction, reconstruction, enlargement or relocation of a structure, building or part thereof.

PERMIT, ZONING. A certificate issued by a designated Township official stating that the purpose for which a building or land is to be used is in conformity with all requirements of the Zoning Ordinance for the zoning district in which the use is situate.

PERMITTED USE. A use of a lot, building, structure, sign or part thereof which is permitted as of right in a particular zoning district.

PERSONAL CARE CENTER. A residential use providing residential and support services primarily to persons over the age of sixty (60) and/or the disabled and that is licensed as a Personal Care Home by the Commonwealth of Pennsylvania.

PERSONAL SERVICE ESTABLISHMENT. Places primarily providing services, which do not involve retail sales or professional advisory services. The term "PERSONAL SERVICE ESTABLISHMENT" shall include those oriented to serving personal needs, such as barber and beauty shops, shoe repair shops, household appliance repair shops, dry cleaning and laundry pickups, and other similar establishments.

PICNIC AREA. An area of open space and pavilions that is not publicly owned and which is rented for picnics and outdoor recreation.

PLANNED NEIGHBORHOOD CONVENIENCE CENTER. A totally planned development on contiguous land under single ownership or control, intended and planned to primarily serve the daily and convenient shopping and personal service needs of the community, but not to include a regional shopping mall. All proposed uses shall be submitted for the total development of

the site.

PLANNING AGENCY. A planning commission, planning department, or a planning committee of the governing body.

PLANNING COMMISSION. The Planning Commission of East Penn Township, Carbon County, Pennsylvania.

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

PRINTING. Printing, publishing, lithography, bookbinding, and/or kindred arts.

PUBLIC BUILDING OR FACILITY. Municipal, county, state or federal government buildings or facilities designed, maintained, or used by the government or designed, maintained, or used for public use which is sponsored by such governments, except landfills and waste disposal areas and facilities.

PUBLIC HEARING. A formal meeting held pursuant to public notice by the governing body or planning agency, intended to inform and obtain public comment, prior to taking action in accordance with the MPC.

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

PUBLIC NOTICE. A notice published in a news paper of general circulation as provided for in the MPC, Section 107.

QUARRY. A lot or land or parcel thereof used for the purpose of extracting stone, sand, gravel, or other earthen products.

RADIO/TV BROADCASTING STATION. Any structure used for the transmission or retransmission of a commercial radio or TV broadcast signal.

RECREATIONAL VEHICLE OR UNIT. A vehicle or piece of equipment, whether self-powered or designed to be pulled or carried, intended primarily for leisure time or recreational use. Recreational vehicles include travel trailers, truck-mounted campers, motor homes, folding tent campers and automobiles, buses or trucks adapted for vacation use, snowmobiles, mini-bikes, all-terrain vehicles, go-cart, boat trailers, and other vehicles not suitable for daily conventional family transportation on public streets.

RECYCLING COLLECTION AND TRANSFER CENTER. A lot, parcel, tract, building, structure or part thereof designed, maintained and used for the collection, sorting and transfer of nontoxic recyclable items.

RESTAURANT. A building in which food is prepared and served to the public for consumption within the building. The sale

of alcoholic beverages may also occur.

RETAIL STORE. A building or structure devoted to the sale of commodities in smaller quantities to the ultimate consumer. The term "RETAIL STORE" shall not include the term "Adult Book Store".

ROADSIDE STAND. An open or enclosed stand situated along the roadway for the purpose of selling agricultural or horticultural products.

SANITARY LANDFILL. A type of "Solid Waste Disposal Area" involving the deposition of solid waste on land, compacting the waste, covering the waste with soil and then compacting the soil, and which has a permit to operate as a sanitary landfill from the State.

SATELLITE ANTENNA. A ground-based reflector, usually parabolic in shape, intended for use to receive electronic signals from a satellite. This shall also include any pedestal or attached structure.

SELF-STORAGE BUILDING. A building or group of buildings divided into individual separate access units which are rented or leased to the general public for the storage of personal property.

SEWAGE DISPOSAL SYSTEM, CENTRALIZED. A sewage system, publicly or privately owned, in which sewage is collected from two or more lots or two or more dwelling units to a central treatment plant. The design shall be in compliance with Pennsylvania Department of Environmental Protection's rules and regulations or regulations of the Township, whichever is more stringent.

SEWAGE DISPOSAL SYSTEM, ON-LOT. Any structure, publicly or privately owned, designed for the collection of sewage from one or more lots or one or more dwelling units with a disposal into a subsurface soil absorption area. The design shall be in accordance with Pennsylvania Department of Environmental Protection's rules and regulations or regulations of the Township, whichever is more stringent.

SIGN. Any structure, wall or other outdoor surface or any device or part thereof which displays or includes any letter, word, model, banner, flag, pennant, indignity, device or other representations used for announcement, direction, information, attraction or other advertisement.

SIGN, ADVERTISING. A sign which directs attention to products, accommodations, services, or activities offered at locations other than the property upon which the sign is erected or displayed. For the purpose of this Ordinance, a commercial billboard is an advertising sign.

SIGNS, NUMBER AND SURFACE AREA. For the purpose of

determining number of signs, a sign shall be considered as a single display surface or device containing elements organized, related, and composed to form a unit. Where matter is displayed in a random manner without organized relationship or elements, each element shall be considered as single sign. The surface area of a sign shall be computed to include the entire area within a regular geometric form or combinations.

SOLID WASTE. Any waste including, but not limited to municipal, residual or hazardous waste, including solid, liquid, semi-solid or contained gaseous materials. The term "SOLID WASTE" does not include coal ash or drill cuttings.

SOLID WASTE DISPOSAL AREA OR FACILITY. A lot, parcel or tract of land including but not limited to a sanitary landfill where garbage, trash or junk is disposed of or is processed or recycled for disposal or reuse. Such use shall not include the disposal or processing of hazardous or radio-active materials.

SOLID WASTE TRANSFER AREA. A place where solid waste is brought, sorted, stored for less than four days and transferred from one vehicle to another vehicle or to a rail car for the purpose of transport to a solid waste disposal area or facility. Such use shall not include the transfer or processing of hazardous or radio-active materials.

SPECIAL EXCEPTION. A use permitted in a particular zoning district pursuant to the provisions of Articles VI and IX of the MPC.

SPECIFIC ANATOMICAL AREAS. Less than completely and opaquely covered human genitals, pubic region, buttock or female breast below a point immediately above the top of the areola; human male genitals in a discernible turgid state, even if completely or opaquely covered.

SPECIFIC SEXUAL ACTIVITIES. Human genitals in a state of sexual stimulation or arousal. Acts of human masturbation, sexual intercourse or sodomy, fondling or other erotic touching of human genitals, pubic region, buttock or female breast.

STADIUM. A building structure or part thereof, whether or nor completely enclosed, primarily used for the viewing and playing of sporting events or public assemblies.

STREET. Includes any street, avenue, boulevard, road, highway, freeway, parkway, lane, alley, viaduct and any other ways used or intended to be used by vehicular traffic or pedestrians whether public or private.

STREET, ARTERIAL. A street whose function is to provide for the movement of high volumes of through-traffic and direct access to abutting properties; subject to necessary control of entrances, exits and curb use.

STREET, COLLECTOR. A street which provides for the movement of moderate volumes of traffic between arterials and local roads and direct access to abutting property.

STREET, LOCAL. A street whose function is to provide for local traffic movement with relatively low volumes and direct access to abutting properties.

STREET LINE. The dividing line between a lot and the outside boundary of a public street or street right-of-way, or between a lot and a private street which serves two or more separately owned homes or buildings.

STRUCTURE. Any man-made object having an ascertainable stationary location on or in land or water, whether or not affixed to the land. This term includes the word "BUILDING".

STUDIO. Any building or part thereof used for the practice of dance, design, music, painting, photography, pottery, sculpture, physical fitness, etc.

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 division of land including changes in existing lot lines for the purpose, whether immediate or future, of lease, partition by 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.

SUBSTANTIALLY COMPLETED. Where, in the judgment of the municipal engineer, at least 90 percent (based on the cost of the required improvements for which financial security was posted pursuant to Section 509 of the MPC) of those improvements required as a condition for final approval have been completed in accordance with the approved plan, so that the project will be able to be used, occupied, or operated for its intended use.

SWIMMING POOL, PRIVATE. Any artificially constructed body of water and any lake or pond maintained by an individual for bathing by members of the household and guests, located on a lot as an accessory use to the residence. A wading pool, with a depth of less than 18 inches shall not be deemed as a swimming pool.

SWIMMING POOL, PUBLIC OR SEMI-PUBLIC. Any body of water maintained for the use of an association of members and guests or the general public either for a fee or without cost. A wading pool with a depth of less than 18 inches shall not be deemed a swimming pool. A portable pool located above ground level, with an area of less than 144 square feet and constructed to contain a water depth of less than three feet, temporary in character and constructed of a material other

than concrete or masonry, capable of being moved from one place to another, shall not be deemed a public swimming pool.

TAVERN. A place where alcoholic beverages are served as a primary or substantial portion of the total trade. The sale of food may also occur.

TRAVEL TRAILER CAMP. A lot or part thereof occupied or designed for occupancy by two or more travel trailers or travel units.

TRAVEL TRAILER. A vehicular portable structure built on a chassis, designed as a temporary dwelling for travel, recreation, vacation, and other short-term uses having a body width not exceeding eight feet and a body length not exceeding 40 feet.

TRAVEL UNIT. A truck-mounted camper; an auto, truck, or bus adapted for vacation living; a folding tent camper, a tent, and other similar devices used for temporary portable housing.

TRUCKING TERMINAL. A site, building and/or structure used by the trucking transport industry or similar commercial enterprise as a centralized transfer point for the shipping of goods to other locations.

USE AND USED. Includes the phrases "arranged", "designed" and "intended to be used" and shall mean a specific purpose for which land, buildings or structures are designed, arranged, intended, occupied or maintained, or any activity, occupation, business or operation which may be conducted at a given location.

VACATION RESORT. A building, group of buildings, or a parcel of land, under single ownership or agreement which provides combined facilities for lodging, a restaurant, entertainment, outdoor and indoor recreation and leisure-time enjoyment of the vacationing public.

VARIANCE. Relief granted pursuant to the provisions of Articles VI and IX of the MPC.

VETERINARY OFFICE OR ANIMAL HOSPITAL. Any building used by a veterinarian for the treatment of small domestic animals such as dogs, cats, goats, rabbits, and birds or fowl with limited interior boarding required due to the medical treatment. All boarding facilities are to be housed indoors and adequately soundproofed so that sounds generated within the building cannot be heard at the lot lines. Such use shall not be construed as a home occupation under the definition of terms of this Ordinance.

WAREHOUSE. A structure or area where materials or products are stored. Materials or products stored outdoors shall be screened from view.

WATER SUPPLY SYSTEM, CENTRALIZED. A system for supplying and distributing water from a common source to two or more lots, or two or more dwelling units including accessory structures and operated by a governmental agency, governmental authority, public utility company, or developer. The design shall be in compliance with Pennsylvania Department of Environmental Protections' rules and regulations or regulations of the Township, whichever is more stringent.

WATER SUPPLY SYSTEM, ON-LOT. A system for supplying water to a single dwelling unit including an accessory structure from a source located on the same lot. The design shall be in accordance with Pennsylvania Department of Environmental Resources' rules and regulations or regulations of the Township, whichever is more stringent.

WHOLESALE TRADE. A structure or an area where merchandise is displayed for wholesale trade. Merchandise stored outdoors shall be screened from view.

WILDLIFE SANCTUARY. Includes nature center, outdoor education laboratory, woodland preserve or arboretum.

YARD, FRONT. A space on the same lot with a building, situated between the front foundation or support pillar of the main building and the front lot line of the lot and extending from side lot line to side lot line.

YARD, REAR. A space on the same lot with a building, situated between the rear foundation or support pillar of the main building and the rear lot line of the lot and extending from side lot line to side lot line.

YARD, SIDE. A space on the same lot with a building, situated between the side foundation or support pillar of the main building and the side lot line of the lot, and extending through from the front yard or from the front lot line where no front yard exists, to the rear yard, or to the rear lot line where no rear yard exists.

YARD, SIDE ABUTTING STREET. A space on the same lot with a building, situated between the side foundation or support pillar of the main building and the street line extending from the front yard to the rear lot line.

ZONING MAP. The Official Zoning Map of East Penn Township.

ZONING OFFICER. The duly constituted municipal official designated to administer and enforce the Zoning Ordinance of the Township.

**ARTICLE 3
DISTRICTS AND BOUNDARIES**

300 CLASSES OF DISTRICTS

For the purpose of this Ordinance the Township is hereby divided into the following districts:

- BC - Business Commercial
- IC - Industrial Commercial
- VC - Village Center
- RR - Rural Residential
- R - Rural

In addition, there is hereby created an Environmental Protection District which shall overlay the above districts in the manner as is set forth in Article 9.

301 MINIMUM REQUIREMENTS

In computing the minimum lot requirements for the above districts, land that has natural characteristics that classify it to be part of the Environmental Protection District shall be excluded. Specifically, but not by way of limitation, the minimum lot area requirements for the above districts shall be deemed to be satisfied only if the minimum lot area is comprised of contiguous land undivided by land classified as being in the Environmental Protection District.

302 DISTRICT BOUNDARIES

.01 Zoning Map

The boundaries of each district are established as shown on the Zoning Map of the Township which accompanies this Ordinance and is declared to be a part of this Ordinance. The Zoning Map is on file in the Administration Office of the Township. Said Map and all notations, references, and data shown thereon are hereby incorporated by reference into this Ordinance, and shall be as much part of this Ordinance as if all were fully described herein.

.02 Delineation of District Boundaries

The district boundary lines are intended to follow the boundary lines of streets and similar rights-of-way or lot lines, or straight line projections of such lines, or Township boundary lines, all as shown on the Zoning Map; but where a district boundary line does not follow such a line, its position is shown on said Zoning Map by a specific dimension expressing its distance in feet from a line or another boundary line as indicated and determined by the scale of the Map.

302 .03 Interpretation of District Boundaries

In case of uncertainty as to the true location of a district boundary line in a particular instance, the determination thereof shall be made by the Zoning Officer. An appeal may be taken to the Board, as provided in Section 1105.

303 STATEMENT OF INTENT

.01 Commercial and Industrial District

Commercial and industrial areas are those areas which have been determined to be most suited for commercial and industrial development, on the basis of location, access, natural determinants, potential markets, overall relation to the Comprehensive Plan of the Township and other factors, and sufficient to provide for natural expansion in the Township as developed in the Comprehensive Plan.

.02 Village Center District

The Village Center District are those areas which have been determined as most logical and suitable for intensive and orderly physical development as documented in the Township Comprehensive Plan.

.03 Rural/Rural Residential District

Rural areas are those areas where intensive physical development is not desirable or logical at this time, but may be at some future date, and are areas of high agricultural productivity. The low density development of these areas is in accordance with the Township developmental policies as stated in the Township Comprehensive Plan.

.04 Environmental Protection District

.041 Environmental Protection areas are those areas where there are natural limitations upon development of any kind; such limitations include but are not limited to slope greater than fifteen percent, flood plains, and high water table conditions. Regulations in these districts have been established to prohibit all but extremely low density development in conformance with the Township Comprehensive Plan.

.042 Flood plain areas which have been part of the Environmental Protection District are those which the U.S. Soil Conservation Service has certified as subject to periodic flooding. For reasons of health and safety permanent structures are not suitable in these areas.

**ARTICLE 4
BUSINESS COMMERCIAL DISTRICT**

400 PERMITTED, ACCESSORY AND SPECIAL EXCEPTION USES

Within this district no building, structure, lot or land shall be used for other than one or more of the permitted, accessory or special exception uses listed in said district except for nonconforming uses and nonconforming buildings in Section 1018.

401 HEIGHT

No building or structure shall be erected to a height in excess of the maximum allowable height in said district, except as provided in Supplementary Regulations in Section 1003.

402 PERMITTED USES

- .01 Accessory uses or structures.
- .02 Agriculture.
- .03 Automotive and machinery repair station.
- .04 Automotive and machinery sales.
- .05 Automotive gas station.
- .06 Automotive service station.
- .07 Bank.
- .08 Car wash.
- .09 Community Center.
- .10 Cultural Center.
- .11 Day Care Center.
- .12 Financial Institution, less than 10,000 square feet net floor area.
- .13 Funeral Home.
- .14 General Servicing or repair shop; such as watch, clock, radio, television or other home appliance repair.
- .15 Home Occupation
- .16 Hospital.
- .17 Hotel.

- 402 .18 Information plaza.
.19 Laundromat.
.20 Medical or dental clinic.
.21 Membership club.
.22 Motel.
.23 Nursery (greenhouse).
.24 Office, less than 10,000 square feet net floor area.
.25 Park.
.26 Personal service establishment.
.27 Planned neighborhood convenience center.
.28 Printing
.29 Public utility building or structure
.30 Restaurant, excluding drive-in facilities.
.31 Retail building materials and storage area.
.32 Retail store.
.33 Self-storage building, outside storage limited to 50 percent of building area.
.34 Studio.
.35 Swimming pool, public or private.
.36 Tavern.
.37 Veterinary office or animal hospital.
.38 Warehouse

403 SPECIAL EXCEPTION USES

The following are permissible subject to Board approval:

- .01 Amusement establishment
.02 Animal husbandry, provided that barns or animal shelters shall not be located closer than 150 feet from any dwelling except the dwelling of the owner or lessee or closer than 150 feet from any conforming industrial or commercial use in this district.

- .03 Manufacture, assembly or treatment of articles or merchandise from the following previously prepared materials: plastics, bone, canvas, cellophane, cork, feathers, fibre, glass, horn, leather and fur, precious or semi-precious stones, shells, textiles and tobacco.
- .05 Manufacture of ceramic products (using only previously pulverized clay); novelty or small products from previously prepared paper or cardboard (excluding bulk processing); jewelry, clocks, and watches, medical, drafting, optical and other professional and scientific instruments and equipment; musical instruments; small rubber products and synthetic treated fabrics; toys; wood products (excluding bulk processing of wood and lumber).
- .06 Manufacture of paper or cardboard boxes, envelopes, containers and novelties from previously prepared paper or cardboard.
- .07 One dwelling unit with each commercial building.
- .08 Radio/TV broadcasting station.
- .09 Single family dwelling.

404 LOT AREA, WIDTH, BUILDING AND LOT COVERAGE, AND HEIGHT REGULATIONS

With centralized sewage disposal system					
	Minimum Lot Area	Minimum Lot Width	*Maximum Building Coverage of Lot	*Maximum Lot Coverage	*Maximum Building Height
Hotel or Motel	80,000 sq.ft.	250 ft.	35%	65%	35 ft.
All other permitted commercial uses	15,000 sq.ft.	100 ft.	35%	65%	35 ft.

* Lower Maximum may be necessary for stormwater compliance.

With on-lot sewage disposal system							
	Minimum Lot Area	Maximum Lot Area	Minimum Lot Width	*Maximum Building Coverage	*Maximum Lot Coverage	Maximum Building Height	Maximum Floor Area Ratio
Residential use (per dwelling unit)	1 ac.	none	150 ft.	30%	65%	35 ft.	0.35
Planned neighborhood convenience center	2 ac.	5 ac.	250 ft.	35%	65%	35 ft.	0.35
Warehouse/ wholesale trade	2 ac.	4 ac.	250 ft.	35%	65%	35 ft.	0.35
All other uses	1 ac.	5 ac.	100 ft.	30%	65%	35 ft.	0.35

* Lower Maximum may be necessary for stormwater compliance

405 MINIMUM YARD REQUIREMENTS

	Front Yard	Each Side Yard	Side Yard Abutting Street	Rear Yard
Hotel or Motel	50 ft. or per Section 1009	40 ft.	50 ft.	50 ft.
All other permitted uses	50 ft. or per Section 1009	20 ft.	40 ft.	50 ft.

FOR ADDITIONAL CRITERIA SEE SECTION 1016

**ARTICLE 5
INDUSTRIAL COMMERCIAL DISTRICT**

500 PERMITTED, ACCESSORY AND SPECIAL EXCEPTION USES

Within this district no building, structure, lot or land shall be used for other than one or more of the permitted, accessory or special exception uses listed in said district except for nonconforming uses and nonconforming buildings in Section 1018.

501 HEIGHT

No building or structure shall be erected to a height in excess of the maximum allowable height in said district, except as provided in Supplementary Regulations in Section 1003.

502 PERMITTED USES

- .01 Accessory uses or structures.
- .02 Agriculture.
- .03 Amusement park.
- .04 Animal husbandry, provided that barns and animal shelters shall not be located closer than 150 feet from any dwelling except the dwelling of the owner or lessee or closer than 150 feet from any conforming industrial or commercial use in this district.
- .05 Automotive and machinery repair station.
- .06 Automotive and machinery sales.
- .07 Automotive gas station.
- .08 Automotive service station.
- .09 Financial institution.
- .10 Forestry.
- .11 Information plaza.
- .12 Home occupation
- .13 Laboratory.
- .14 Laundromat or dry cleaning plant.
- .15 Manufacture and assembly of electrical or electronic devices; home, commercial and industrial appliances and instruments; and electrical supplies, including such equipment and supplies as: lighting fixtures, fans,

homeradio and television receivers, electrical switches, lamps, washing machines, refrigerators and air-conditioners.

- 502 .16 Manufacture and assembly of metal and wood products, but excluding raw materials processing.
- .17 Manufacture, assembly or treatment of articles or merchandise from the following previously prepared materials: plastics, bone, canvas, cellophane, cork, feathers, fibre, glass, horn, leather and fur, precious or semi-precious metals or stones, shells, textiles and tobacco.
- .18 Manufacture of ceramic products (using only previously pulverized clay); novelty or small products from previously prepared paper or cardboard (excluding bulk processing); jewelry, clocks and watches; medical, drafting, optical and other professional and scientific instruments and equipment; musical instruments; small rubber products and synthetic treated fabrics; toys; wood products (excluding bulk processing of wood and lumber).
- .19 Manufacture of concrete or brick products.
- .20 Manufacture of paper or cardboard boxes, envelopes, containers and novelties from previously prepared paper or cardboard.
- .21 Metal fabrication and assembly.
- .22 Metal processing (light) such as metal machining, finishing, grinding and polishing; metal stamping and extrusion of small products (such as costume jewelry and kitchen utensils); and the manufacture of light metal products, tools and hardware (such as hand tools, bolts and nuts).
- .23 Office.
- .24 Park.
- .25 Printing.
- .26 Processing and combining of food products, including baking, canning, cooking, freezing and mixing, bottling plant.
- .27 Processing, packaging and treatment or compounding of such products as cosmetics and toiletries, drugs, perfumes and pharmaceuticals.
- .28 Public building or facility
- .29 Public utility building or structure.

- 502 .30 Recycling, collection and transfer center.
- .31 Restaurant.
- .32 Self-storage building, outside storage limited to 50 percent of building area.
- .33 Trucking terminal.
- .34 Warehouse.
- .35 Wholesale trade.

503 SPECIAL EXCEPTION USES

The following are permissible subject to Board approval:

- .01 Bus passenger station.
- .02 Garage, parking.
- .03 Motor vehicle racing and/or competition.
- .04 One dwelling unit within each commercial building.
- .05 Parking area.
- .06 Quarry.
- .07 Radio/TV broadcasting station
- .08 Solid waste disposal area or facility
- .09 Solid waste transfer area.
- .11 Stadium.
- .12 Wholesale trade.

504 LOT AREA, WIDTH, BUILDING AND LOT COVERAGE, AND HEIGHT REGULATIONS

	Minimum Lot Area	Minimum Lot Width	*Maximum Building Coverage of Lot	*Maximum Lot Coverage	Maximum Building Height
With centralized sewage disposal system					
All permitted commercial uses	15,000 sq. ft.	100 ft.	35%	65%	35 ft.
All permitted industrial uses	40,000 sq. ft.	120 ft.	35%	65%	35 ft.
With any type sewage disposal system					
Motor vehicle racing	50 ac.	900 ft.	1%	65%	35 ft.
With on-lot sewage disposal system					
Residential use (per dwelling unit)	1 ac.	150 ft.	30%	65%	35 ft.
All other uses	1 ac.	100 ft.	30%	65%	35 ft.

* Lower maximum may be necessary for stormwater compliance.

505 MINIMUM YARD REQUIREMENTS

	Front Yard	Each Side Yard	Side Yard Abutting Street	Rear Yard
Motor vehicle racing	200 ft.	300 ft.	300 ft.	400 ft.
All other permitted uses	50 ft. or per Section 1009	20 ft.	40 ft.	50 ft.

FOR ADDITIONAL CRITERIA SEE SECTION 1016

**ARTICLE 6
VILLAGE CENTER DISTRICT**

600 PERMITTED, ACCESSORY AND SPECIAL EXCEPTION USES

Within this district no building, structure, lot or land shall be used for other than one or more of the permitted, accessory or special exception uses listed in said district except for nonconforming uses and nonconforming buildings in Section 1018.

601 HEIGHT

No building or structure shall be erected to a height in excess of the maximum allowable height in said district, except as provided in Supplementary Regulations in Section 1003.

602 PERMITTED USES

- .01 Accessory uses or structures.
- .02 Agriculture.
- .03 Automotive gas station.
- .04 Bank.
- .05 Bed and breakfast facility or boarding house.
- .06 Church.
- .07 Financial institution.
- .08 Forestry.
- .09 General servicing or repair shop; such as watch, clock, radio, television or other home appliance repair.
- .10 Home occupation.
- .11 Laundromat.
- .12 Medical or dental clinic.
- .13 Mobile Home Parks as regulated by the Township Mobile Home Permit Ordinance and Subdivision and Land Development Ordinance and when served by a centralized sewage disposal system.
- .14 Mobil homes provided they are set upon a foundation.
- .15 Multiple dwellings when served by a centralized sewage disposal system.
- .16 Office.

- .17 Park.
- .18 Personal service establishment.
- .19 Restaurant, excluding drive-thru service facilities.
- .20 Retail store.
- .21 Single family attached dwelling when served by a centralized sewage disposal system.
- .22 Single family detached dwelling.
- .23 Single family semi-detached dwelling.
- .24 Studio.
- .25 Tavern.
- .26 Two family detached dwelling.

603 SPECIAL EXCEPTION USES

The following uses are permissible subject to Board approval:

- .01 Adult bookstore.
- .02 Adult motion picture theater.
- .03 Cabaret.
- .04 Community center.
- .05 Community service building.
- .06 Cultural center.
- .07 Educational institution.
- .08 Funeral home.
- .09 Hospital.
- .10 Massage establishment.
- .11 Membership club.
- .12 Public building.
- .13 Public utility building or structure.
- .14 Swimming pool, public or semi-public.

604 LOT AREA, WIDTH, BUILDING AND LOT COVERAGE, AND HEIGHT REGULATIONS

	Minimum Lot Area	Minimum Lot Width	*Maximum Building Coverage of Lot	*Maximum Lot Coverage	Maximum Building Height
With centralized sewage disposal system					
Single family detached	15,000 sq. ft.	100 ft.	30%	65%	35 ft.
Single family attached	maximum 4 dwelling units per ac.	20 ft.	30%	65%	35 ft.
All other permitted residential uses	12,500 sq. ft.	70 ft.	30%	65%	35 ft.
All permitted commercial uses	15,000 sq. ft.	100 ft.	30%	65%	35 ft.
With on-lot sewage disposal system					
All permitted residential uses (per dwelling unit)	1 ac.	150 ft.	30%	65%	35 ft.
All permitted commercial uses	1 ac.	100 ft.	30%	65%	35 ft.

* Lower maximum may be necessary for stormwater compliance.

605 MINIMUM YARD REQUIREMENTS

	Front Yard	Each Side Yard	Side Yard Abutting Street	Rear Yard
With centralized sewage disposal system				
Single family detached	50 ft. or per Section 1009	20 ft.	40 ft.	30 ft.
Single family attached	50 ft. or per Section 1009	20 ft.*	40 ft.	30 ft.
All other permitted residential uses	50 ft. or per Section 1009	20 ft.*	40 ft.	30 ft.
All permitted commercial uses	50 ft. or per Section 1009	20 ft.	40 ft.	50 ft.
With on-lot sewage disposal systems				
All permitted residential uses	50 ft. or per Section 1009	25 ft.	40 ft.	50 ft.
All permitted commercial uses	50 ft. or per Section 1009	20 ft.	40 ft.	50 ft.

* Except along common wall.

Lot sizes in Mobile Home Parks shall comply with the requirements of the Mobile Home Permit Ordinance and the Township's Subdivision and Land Development Ordinance.

FOR ADDITIONAL CRITERIA SEE SECTION 1016.

**ARTICLE 7
RURAL RESIDENTIAL DISTRICT**

700 PERMITTED, ACCESSORY AND SPECIAL EXCEPTION USES

Within this district, no building, structure, lot or land shall be used for other than one or more of the permitted, accessory or special exception uses listed in said district except for nonconforming uses and nonconforming buildings in Section 1018.

701 HEIGHT

No building or structure shall be erected to a height in excess of the maximum allowable height in said district, except as provided on Supplementary Regulations in Section 1003.

702 PERMITTED USES

- .01 Accessory uses or structures.
- .02 Agriculture.
- .03 Animal husbandry, provided that barns and animal shelters shall not be located closer than 150 feet from any dwelling except the dwelling of the owner or lessee.
- .04 Church.
- .05 Cultural Center
- .06 Forestry
- .07 Home occupation.
- .08 Mobile homes, permanent, provided that they are set upon a foundation in compliance with the State Regulations, and excluding Mobile Home Parks.
- .09 Nursery (green house).
- .10 Park.
- .11 Picnic Area.
- .12 Roadside stand.
- .13 Single family cluster development.
- .14 Single family detached dwelling.
- .15 Single family semi-detached dwelling.
- .16 Two family detached dwelling.

.17 Wildlife sanctuary.

703 SPECIAL EXCEPTION USES

The following uses are permissible subject to Board approval:

.01 Commercial stable and/or riding academy.

.02 Community center.

.03 Community service building.

.04 Educational institution.

.05 Golf course.

.06 Hospital.

.07 Membership club.

.08 Mobil Home Parks.

.09 Public building.

.10 Public utility building or structure.

.11 Swimming pool, public or semi-public.

.12 Vacation resort.

704 LOT AREA, WIDTH, BUILDING AND LOT COVERAGE, AND HEIGHT REGULATIONS

	Minimum Lot Area (per dwelling unit)	Minimum Lot Width	*Maximum Building Coverage of Lot	Maximum Building Height
With any type sewage disposal system				
Single family semi-detached; Two family detached	2 ac.	200 ft.	20%	35 ft.
All other permitted uses	2 ac.	200 ft.	20%	35 ft.
With centralized sewage disposal system				
Single family cluster development	12,500 sq. ft.	100 ft.	40%	35 ft.

*Lower maximum may be necessary for stormwater compliance

705 MINIMUM YARD REQUIREMENTS

	Front Yard	Each Side Yard	Side Yard Abutting Street	Rear Yard
Single family semi-detached; Two family detached	40 ft. or per Section 1009	20 ft.*	40 ft.	50 ft.
All other permitted uses	40 ft. or per Section 1009	20 ft.	40 ft.	50 ft.

* Except along common wall.

FOR ADDITIONAL CRITERIA SEE SECTION 1016

**ARTICLE 8
RURAL DISTRICT**

800 PERMITTED, ACCESSORY AND SPECIAL EXCEPTION USES

Within this district, no building, structure, lot or land shall be used for other than one or more of the permitted, accessory or special exception uses listed in said district except for nonconforming uses and nonconforming buildings in Section 1018.

801 HEIGHT

No building or structure shall be erected to a height in excess of the maximum allowable height in said district, except as provided in Supplementary Regulations in Section 1003.

802 PERMITTED USES

- .01 Accessory uses and structures.
- .02 Agri-business.
- .03 Agriculture.
- .04 Animal husbandry, provided that barns and animal shelters shall not be located closer than 150 feet from any dwelling except the dwelling of the owner or lessee.
- .05 Cemetery.
- .06 Church.
- .07 Forestry.
- .08 Game farm, fish hatchery, hunting or fishing reserves, or similar uses designed for the protection or propagation of wildlife.
- .09 Home occupation.
- .10 Membership club.
- .11 Nursery (greenhouse).
- .12 Park.
- .13 Picnic area.
- .14 Roadside stand.
- .15 Single family detached dwelling.
- .16 Wildlife sanctuary.

803 SPECIAL EXCEPTION USES

The following uses are permitted subject to Board approval:

- .01 Commercial stables and/or riding academy.
- .02 Community center.
- .03 Community service building.
- .04 Educational institution.
- .05 Golf course.
- .06 Gunning, trap and skeet shooting and target ranges.
- .07 Hospitals.
- .08 Kennels provided that outdoor pens and feed yards shall not be located closer than 300 feet from any dwelling except the dwelling of the owner or lessee.
- .09 Public building.
- .10 Public utility building or structure.
- .11 Swimming pool, public or semi-public.
- .12 Travel trailer camp.
- .13 Veterinary office or animal hospital.

804 LOT AREA, WIDTH, BUILDING AND LOT COVERAGE, AND HEIGHT REGULATIONS

	Minimum Lot Area	Minimum Lot Width	*Maximum Building Coverage of Lot	Maximum Building Height
With any type sewage disposal system				
Gun club, trap shooting, target range	50 ac.	1000 ft.	1%	35 ft.
With on-lot sewage disposal systems				
All other permitted uses	2 ac.	150 ft.	10%	35 ft.

*Lower maximum may be necessary for stormwater compliance.

805 MINIMUM YARD REQUIREMENTS

	Front Yard	Each Side Yard	Side Yard Abutting Street	Rear Yard
Gun club, trap shooting, target range	100 ft.	200 ft.	200 ft.	500 ft.
All other permitted uses	50 ft. or per Section 1009	30 ft.	50 ft.	50 ft.

FOR ADDITIONAL CRITERIA SEE SECTION 1016

**ARTICLE 9
ENVIRONMENTAL PROTECTION OVERLAY**

900 PERMITTED AND ACCESSORY USES

Within this district, no buildings, structure, lot or land shall be used for other than one or more of the permitted or accessory uses listed in said district except for nonconforming uses and nonconforming buildings in Section 1018.

901 HEIGHT

No building or structure shall be erected to a height in excess of the maximum allowable height in said district, except as provided for in Supplementary Regulations Section 1003.

902 TYPES OF ENVIRONMENTAL AREAS PROTECTED AND DETERMINATION OF AREA

Land with natural steep slopes (15 percent slope or greater), land in flood plains, or land with high water table characteristics are included in the Environmental Protection Overlay. The Zoning Map indicates the general location of these environmentally sensitive areas within the Township. Whenever the Zoning Map or a field inspection indicates that the lot for which a building permit is being sought or (a) the lot(s) proposed for subdivision lie(s) wholly or partially in an area of steep slope, flood plain, or high water table, the Zoning Officer shall require the applicant to provide field data information for each such lot which shall be produced and certified by a Registered Professional Engineer or Registered Surveyor. The Zoning Officer may consult the Township Engineer to review the accuracy of all information submitted. Once the Zoning Officer is satisfied that the information submitted is accurate, he shall use that actual on-site information to review the lot(s) for compliance with the minimum lot requirements.

903 REGULATIONS FOR AREA AFTER DETERMINATION

Upon determination that the lot(s) under consideration is/are partially or wholly within the Environmental Protection Overlay, the following regulations, as applicable, shall apply:

.01 Flood Plain Area

- .011 The permitted, accessory and special exception uses shall be permitted within the flood plain to the extent that they are not prohibited by other provisions of this ordinance and provided that they do not require enclosed structures, fill or storage of materials or equipment, or dumping of any

nature.

- 903.01 .012 Flood plain soils are those classified in Group 13 in the Carbon County Soil Survey or are subject to flooding as identified on the Flood Insurance Rate Map produced by the Federal Emergency Management Agency and accepted by the Township.

Steep Slopes Area

- .021 Where (a) the lot(s) is/are partially in a steep slope area, (b) there are no earthmoving activities or removal of vegetation proposed for the steep slope portion of the lot(s) and (c) Pennsylvania Department of Environmental Protections' standards for on-lot sewage disposal will be met on other portions of the lot, the requirements contained in other sections of this Ordinance for the use of the district in which the lot lies shall be applied.
- .022 Where (a) earthmoving activities or removal of vegetation are proposed for any portion of the lot determined to be a steep slope area or (b) any portion of a steep slope is to be used to meet Pennsylvania Department of Environmental Protections' standards for on-lot sewage disposal, the minimum standards and uses in Section 905 shall apply.
- .023 The location of steep slope area is to be determined by a field survey with the concurrence of the Township Engineer. Each survey providing field data information shall show existing and proposed contours at five feet intervals.
- .024 The building site on a lot in a steep slope area shall be on that section of the lot where the natural slope does not exceed 15 percent. The length and width of the building site shall include the area within the foundation walls and extend .25 feet beyond the foundation walls on all sides.

.03 Excessive Slopes

- .031 No development shall be permitted on slopes 25 percent or greater.

.04 High Water Table Area

- .041 Where (a) the lot is partially within a high water table area, (b) there are no structures proposed for the high water table portion of the lot, and (c) Pennsylvania Department of Environmental Protection's standards for on-lot sewage disposal will be met on other portions of the lot, the requirements contained in other sections of this

Ordinance for the use of the district in which the lot lies shall be applied.

903. 04 .042 Where (a) structures are proposed for the high water table portion of the lot, or (b) any portion of high water table area is to be used to meet Pennsylvania Department of Environmental Protections' standards for on-lot sewage disposal, the minimum standards and uses in Section 906 shall apply.
- .043 All public utilities and facilities such as sewer, gas, electrical and water systems located in a high water table area shall be constructed to prevent infiltration of groundwater into the systems and vice versa.
- .044 High water table type soils are those tabulated in Group 12 for Building Sites in the Carbon County Soil Survey as well as any non-flood plain soil where indications of the water table are found 20 inches or less from the ground surface.

904 FLOOD PLAIN AREA OF THE ENVIRONMENTAL PROTECTION DISTRICT

.01 Permitted Uses

- .011 Accessory uses or structures.
- .012 Agriculture.
- .013 Forestry.
- .014 Game farm, fish hatchery, hunting and fishing reserves, or similar uses designated for the protection or propagation of wildlife.
- .015 Nursery.
- .016 Park.
- .017 Picnic Area.
- .018 Wildlife sanctuary.
- .019 Grazing of animals, but specifically not including any housing of animals or structures.

904 .02 Lot Area, Width, Building and lot Coverage and Height Regulations

	Minimum Lot Area	Minimum Lot Width	*Maximum Building Coverage of Lot	Maximum Building Height
With any type sewage disposal system				
All permitted uses	5 ac.	400 ft.	2%	35 ft.

* Lower maximum may be necessary for stormwater compliance

904 .03 Minimum Yard Requirements

	Front Yard	Each Side Yard	Side Yard Abutting Street	Rear Yard
All permitted uses	40 ft. or per Section 1009	20 ft.	40 ft.	50 ft.

905 STEEP SLOPE AREA OF THE ENVIRONMENTAL PROTECTION OVERLAY

.01 Permitted Uses

Any use permitted in the Rural-Residential District

.02 Lot Area, Width, Building and Lot Coverage and Height Regulations

	Minimum Lot Area	Minimum Lot Width	Maximum Building Coverage of Lot	Maximum Building Height
With any type sewage disposal system				
All permitted uses	10 ac.	600 ft.	3%	35 ft.

.03 Minimum Yard Requirements

	Front Yard	Each Side Yard	Side Yard Abutting Street	Rear Yard
All permitted uses	40 ft. or per Section 1009	20 ft.	40 ft.	50 ft.

906 HIGH WATER TABLE AREA OF THE ENVIRONMENTAL PROTECTION OVERLAY

.01 Permitted Uses

- .011 Any use permitted in the Flood Plain Area of the Environmental Protection Overlay.
- .012 Any use permitted in the R-Rural District, but not including businesses and cemeteries.

.02 Lot Area, Width, Building Coverage and Height Regulations

	Minimum Lot Area	Minimum Lot Width	*Maximum Building Coverage of Lot	Maximum Building Height
With any type sewage disposal system				
All permitted uses	5 ac.	400 ft.	3%	35 ft.

*Lower maximum may be necessary for stormwater compliance

.03 Minimum Yard Requirements

	Front Yard	Each Side Yard	Side Yard Abutting Street	Rear Yard
All permitted uses	40 ft. or per Section 1009	20 ft.	40 ft.	50 ft.

FOR ADDITIONAL CRITERIA SEE SECTION 1016

ARTICLE 10
SUPPLEMENTARY REGULATIONS

1000 GENERAL REGULATIONS APPLYING TO ALL DISTRICTS AND USES

The following sets forth conditions and procedures which must be met before permitted uses, accessory uses, special exception uses, and other selected uses can receive approval and be granted a zoning and/or building permit. If the application is considered a land development or subdivision then it must be submitted in accord with the requirements of the East Penn Township Subdivision and Land Development Ordinance.

1001 NONCONFORMING LOTS OF RECORD

Notwithstanding the Lot Area, Lot Width and Lot Coverage requirements of any VC, RR, or R District a building or structure containing a permitted, accessory or special exception use may be erected on any lot with less than the required lot width or lot area if separately owned at the effective date of this Ordinance; provided that the lot has a minimum width of 40 feet, that the aggregate width of the side yards be not less than 30 percent of the lot width, and that the narrower side yard be not less than five feet in width, and PROVIDED FURTHER that in no event shall the building area exceed 30 percent of the lot area. In addition, any lot created by a subdivision plan approved in East Penn Township and filed of record, shall observe those setbacks for front yard, rear yard, side yard and/or side yard abutting street as were applicable on the date of final subdivision plan approval.

1002 DEVELOPMENT LAYOUT

If the application relates to property which is scheduled to be developed in successive stages, such plans shall show the relationship of the portion scheduled for initial development to the proposed layout of the entire property.

1003 HEIGHT

Nothing herein contained shall restrict the height of a church spire, cupola, dome, mast, belfry, clock tower, radio or transmission line, flagpole, chimney flue, water tank, elevator or stair bulkhead, stage tower, smokestack, silo, air conditioning and/or heating units, radio or TV antenna, windmill or similar structure.

.01 No such structure shall:

.011 Exceed two feet of height for every one foot of yard;

.012 Be used for residency or tenancy purposes;

1003 .01 .013 Have any sign inscribed upon or attached to such structure.

1004 HYDROGEOLOGIC STUDY AND REPORT

A hydrogeologic study and report shall be provided to determine an adequate water source when the water source is a well, public or private, and is proposed for a industrial or residential use of more than 50 dwelling units with a density more than one dwelling unit per acre.

1005 LIGHTING FACILITIES

Lighting facilities adequate for the safety of pedestrian and vehicular traffic shall be permitted; however, no additional exterior building illumination, other than specified for signs in Section 1017 shall be permitted.

1006 WASTE AND REFUSE

Provisions are to be made for treatment and/or disposal of all waste.

1007 YARDS

.01 Buffer Yards. Buffer yards shall comply with the following standards:

.011 The buffer yard shall be measured from the district boundary line or the property line or from the street line. Buffer yards may not be part of an existing or future street right-of-way, but shall be in addition to that right-of-way.

.0111 A 25 foot buffer yard shall be required in the BC, and IC Districts along the district boundaries between themselves and 50 foot buffer yard shall be required along all residential district boundary lines in the Township and adjoining municipalities.

.0112 A ten foot buffer yard shall be required along side and rear lot lines between manufacturing uses and commercial uses, excluding self-storage buildings, located within the same district.

.0113 A 200 foot buffer yard shall be required along side and rear lot lines for motor vehicle racing, gun clubs, trap shooting and target ranges.

.012 In all buffer yards, the exterior width beyond the fence or planting screen shall be planted with grass seed, sod or ground cover, and shall be maintained and kept clean of all debris, rubbish,

weeds and tall grass.

1007 .01 .013 The buffer yard shall be a landscaped area free of structures, manufacturing or processing activity, materials and parking areas, retention or detention ponds. No driveways or streets shall be permitted in the buffer yards except at points of ingress or egress. No recreation use shall be permitted in a buffer yard. Buffer yards shall exclude recreation space (but not open space) areas required by this Ordinance or by the Township Subdivision and Land Development Ordinance.

.014 All buffer yards shall include a dense screen planting of trees, shrubs or other plant materials to the full length of the lot line to serve as a barrier to visibility, airborne particles, glare and noise, and, when determined by the Township to be necessary for public safety, a fence as described below. Such screen planting shall be in accordance with the following requirements:

.0141 Plant materials used in the screen planting shall be of such species and size as will produce, within three years, a visual screen of at least six feet in height.

.0142 A fence, when required, shall be not less than six feet in height, and shall be placed on the inside of the screenings and no closer than three feet from any future right-of-way or property line unless by special exception.

.0143 The screen planting shall be maintained permanently and any plant material which does not live shall be replaced within one year.

.0144 The screen planting shall be so placed that at maturity it will not be closer than three feet from any street line or property line. Screening shall consist of a minimum of 50 percent evergreen plantings and shall be planted in a minimum of two rows at 25 feet centers in a staggered arrangement.

.015 No structure, fence, planting or other obstruction shall be permitted within the street line which would interfere with traffic visibility across the corner of a lot, at access driveways, commercial or residential, and within any clear sight triangle.

.016 The screen planting or fence shall be broken only at points of vehicular or pedestrian access.

.017 A built-up earthen bank may be incorporated in the landscaping of buffer yards as long as the

following conditions are met:

1007 .01 .017 .0171 It may not be located in the future street right-of-way.

.0172 The maximum allowable slope shall be one to three.

.0173 The buffer yard landscaping shall be visible from the exterior of the property.

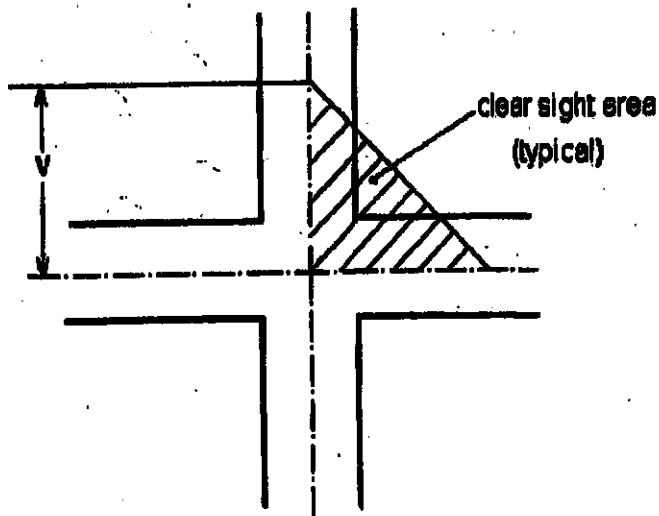
.0174 The surface of the bank shall be stabilized with vegetation.

.02 **Clear Sight Triangle.** The clear sight triangle shall be determined by the intersecting street centerlines and a diagonal connecting two points, one at each street centerline, each of which point is:

.021 V=150 feet from the intersection of such street centerline, if either street is an arterial street.

.022 V=100 feet from the intersection of such street centerlines, if both streets are collector streets or if one is a collector street and the other is a local street.

.023 V=75 feet from the intersection of such street centerline, if both streets are local streets.



1007 .03 On a corner lot, no wall, fence or other structure shall be erected, no vehicle, object or any other obstruction shall be parked or placed, or no hedge, shrub, or other growth shall be planted or maintained which would obscure the driver's vision between two feet and ten feet in height measured from the centerline grades of the intersecting streets.

1008 THROUGH LOTS

Where a lot extends through from street to street, the applicable front yard regulations shall apply on both street frontages.

1009 SETBACKS FROM ROADS

- .01 Minimum setbacks are required from all public and private roads, streets and highways as determined by the functional classification of the road, street or highway as referenced in the Comprehensive Plan. Except as provided in other sections of this Ordinance, no buildings or structures shall be placed between the setback line and street right-of-way line.
- .02 On roads classified as Regional Highways the required setback shall be 100 feet from the centerline of the existing or proposed road.
- .03 On roads classified as Arterials the required setback shall be 90 feet from the centerline of the existing or proposed road.
- .04 On roads classified as Collectors the required setback shall be 80 feet from the centerline of the existing or proposed road.
- .05 On roads classified as local roads, the required setback shall be 75 feet from the centerline of the existing or proposed road. All public roads not specified in Sections 1009.02, 1009.03 and 1009.04 are considered local roads.
- .06 Where front yard requirements have been established in this Ordinance, those requirements will apply only if they are greater than those established in Sections 1009.01 through 1009.05.

1010 PARKING AND TRUCK LOADING SPACE REQUIREMENTS

- .01 Off-Street Parking. Off-street parking spaces for the storage or parking of passenger vehicles shall be provided pursuant to the following requirements:
 - .011 Individual parking spaces shall be clearly marked off into parking spaces, with each space having a minimum width of ten feet and a length of at least 20 feet for all angle parking and at least 22 feet

for parallel parking, exclusive of driveways and parking area.

- 1010 .01 .012 Every parking facility shall be designed so the proposed traffic flow and ingress-egress shall not cause traffic hazards on adjacent streets.
- .013 Every parking area shall be designed so that each motor vehicle may proceed to and from the parking space provided for it without requiring the moving of any other motor vehicle, except on-site parking associated with a single family dwelling or automotive sales.
- .014 Required off-street parking areas shall be located on the same lot or premises with the main use served, or on an adjoining lot.
- .015 No parking shall be located in a required buffer yard.
- .016 No parking area shall be located within ten feet of a septic system absorption area or property line.
- .017 All parking areas for four or more vehicles shall include clearly defined and marked traffic patterns, with the utmost care taken to provide for safe internal traffic movement and to avoid conflicts between vehicles and pedestrians. Aisle width for one-way traffic shall be 22 feet and for two-way traffic shall be 25 feet. No aisle shall exceed 200 feet in length.
- .018 In no case shall parking areas for four or more vehicles be designed to require or encourage cars to back into a public street in order to leave a lot.
- .019 Maintenance of Parking Areas. For parking areas of four or more vehicles, the area not landscaped and so maintained, including driveways, shall be graded, surfaced with asphalt or other suitable material, and drained to the satisfaction of the Board of Supervisors and/or Township Engineer to the extent necessary to prevent dust, erosion, or excessive water flow across streets or adjoining property.
- .020 Mixed Uses. Total requirements shall be the sum of the requirements of the component uses computed separately in Section 1010.024.
- .021 Fractional Space. In all districts when required parking spaces in Section 1010.024 result in a fractional space, any fraction shall be construed as requiring a full space.

.022 Other Uses Not Specifically Listed. The same requirements as for the most similar use listed in Section 1010.024.

.023 Nonapplicability of Existing Buildings and Uses. The provisions of Section 1010 shall not apply to any buildings or use lawfully in existence at the effective date of this Ordinance.

.024 Minimum Requirements for Accessory Garages and Parking Areas. As indicated in the following schedule:

<u>Building Type</u>	<u>Minimum Parking Spaces Required</u>	<u>For Each</u>
Automotive and Machinery Sales	1	25 vehicles for sale plus 1 per employee
Automotive Service and Repair Station or Gas Station	1	300 sq. feet of net floor area or 2 spaces per service bay whichever is larger plus 1 space per employee
Day Care Center	1	faculty member plus 2 per classroom or office
Planned Neighborhood Convenience Center	1	150 sq. ft. of net floor area
Restaurant	1	2 customer seats plus 1 space per employee
Veterinary Office or Animal Hospital	3	doctor plus 1 space per employee
Bed and Breakfast Facility or Boarding House	1	guest room plus 1
Single Family Detached, Semi-Detached or Two Family Detached Dwelling	3*	dwelling unit
Multiple Family and Single Family Attached Dwelling	2.5	dwelling unit
Hotel, Motel	1	guest room plus 1 space per 2 employees

Church	1	3 seats + 1 per 200 sq. ft. of meeting area
Membership Club	1	4 members
Home Occupation	1	non-family employee plus 1 per 300 sq. ft. of net floor area used by home occupation
Self-service Laundromat	1	50 sq. ft. of net floor area
Stadium, Theater, or Similar Place of Public Use	1	4 seats (Note: bench capacity computed at 1 seat for each 20 inches
Educational Institution	1	employee plus 1 per 4 students age 16 yrs. or older (in addition to parking space required for theater/auditorium
Bowling Lane	4	lane, plus 1 per full time employee
Drive-in Restaurant or Stand	1	30 sq. ft. of net floor area
Funeral Home	1	40 sq. ft. of assembly room area
Hospital	1	3 beds plus 1 per 3 employees
All Manufacturing Uses	1	1 employee or each 500 sq. ft. of net floor area whichever is greater plus 1 per company vehicle
Medical or Dental Clinic	1	100 sq. ft. of net floor area
Office and Office Building	1	200 sq. ft. of net floor area

Research Institute or Laboratory	1	100 sq. ft. of net floor area
Retail Store, Bank	1	150 sq. ft. of net floor area
Adult Book Store, Cabaret or Massage Establishment	1	75 sq. ft. of net floor area
Public Utility	1	1 employee plus 1 per 100 sq. ft. of office space
Golf Course	4	per hole plus membership club requirements

*Do not need to be marked off and may include driveway area

1010 .02 Required Off-Street Truck Loading Spaces

.021 Every building or structure, lot or land hereafter put into use for commercial or industrial purposes or for a hospital and which has an aggregate net floor area of 5,000 square feet or more in any district where such uses are permitted, shall be provided with off-street truck loading spaces in accordance with the following schedule:

<u>Square feet of aggregate net floor area devoted to such use</u>	<u>Required number of off-street truck loading spaces</u>
5,000 to 25,000 sq. ft.	1
25,001 to 40,000 sq. ft.	2
40,001 to 100,000 sq. ft.	3
Each additional 60,000 sq. ft.	1 additional

.022 Size of Individual Truck Loading Space. An off-street truck loading space shall have a minimum width of ten feet, a minimum length of 50 feet, and minimum clear height of 14 feet including its access from the street.

1011 ACCESS DRIVEWAYS

.01 Every one-way access driveway shall have a minimum unobstructed width of ten feet. Every two-way access driveway shall have a minimum total unobstructed width of 24 feet. No more than 60 feet of total access driveways will be permitted.

.02 Where a lot does not abut on a public or private road, alley, or easement access, an access driveway not less than ten feet in width shall be provided.

.03 Any access driveway may be located within a required side yard abutting street, required front yard, or required

rear yard.

1012 PROHIBITED USES

.01 Dust, Dirt, Smoke, Vapors, Gases and Odors Control

No person shall operate or permit the operation of any device or conduct or permit any use to be conducted which does not conform with the standards established under the State Air Pollution Control Act of January 9, 1960, Public Law 2119, as amended, and Title 25, Rules and Regulations, Department of Environmental Resources, Subpart C, Protection of Natural Resources, Article III Air Resources.

.012 No person shall generate odors that are seriously offensive to persons of average sensibilities beyond the boundaries of a lot line. This shall not apply to odors created by permitted agricultural uses that are using normal farming practices. Any spreading of manure and septic sludge shall follow good soil and water conservation and odor reduction practices to reduce odor. General standards shall be those recommended by the Pennsylvania State University Agricultural Extension Service.

1012 .02 Noise Control. The sound pressure level of any use (other than the operation of motor vehicles excluding motor vehicle racing) shall not exceed, at any point on the property line, the decibel levels shown below, subject to the following corrections: subtract 5 decibels for pulsating or periodic noises.

Octave Band in Cycles Per Second	Maximum Permitted Sound Level in Decibels	
	Along Residential Agricultural Boundaries	Along Any Other Boundaries
0 to 599	50	55
600 to 2,399	38	40
2,400 to 4,799	35	38
Above 4,799	32	38

Sound pressure level shall be measured according to the specifications published by the American Standard Association. The Pennsylvania Department of Environmental Protection or a professional engineer directed by the Township may, upon request, make decibel readings, determine compliance with the above standards.

.03 Vibration and Lighting. No person shall allow any use to be conducted which is seriously offensive by reason of vibration or light beyond the limits of its lot or to be dangerous or prejudicial to the public health, safety or

general welfare.

1013 ACCESSORY USE OR STRUCTURE REQUIREMENTS

The placement of an accessory use or structure shall be subject to the following requirements:

- .01 Any driveway may be located within any required yard.
- .02 Required accessory parking areas and truck loading spaces shall have safe and adequate access to a public street either by a driveway on the same lot or by means of a permanent easement across an adjoining lot.
- .03 No required accessory parking area or off-street truck loading space shall be encroached upon by buildings, open storage, or any other use.
- .04 No accessory building shall be within a minimum front yard requirement or minimum side yard abutting street requirement in any district.
- .05 No accessory structure shall be constructed within ten feet of any rear lot or any side lot line.
- .06 No accessory structure shall exceed 30 feet in height.
- .07 An accessory use or structure shall be on the same lot with the main building or buildings or on an immediately adjacent lot in the same ownership.

1014 PRIVATE GARAGES OR PRIVATE PARKING AREA

- .01 A private garage or private parking area may be utilized only as an accessory to the main use.
- .02 A private garage may be constructed within or under any portion of a main building.
- .03 Nothing contained herein shall prevent the construction of a private garage as a structural part of a main building, provided that when so constructed, the exterior garage walls shall be regarded as the walls of the main building in applying the front, rear, and side yard regulations of this Ordinance.

1015 PARKING AREA FOR COMMERCIAL VEHICLES IN THE RR, R, EP AND RESIDENTIAL LOTS IN THE VC DISTRICT

Not more than one commercial vehicle with four or more axles, or two commercial vehicles with less than four axles may be parked on any lot and then only subject to the following requirements:

- .01 There shall be a minimum lot size of 1.25 acres exclusive of any road right-of-way.

- 1015 .02 Each commercial vehicle shall be placed in a designated parking area to be located not closer than 25 feet from any lot line or street right-of-way line, or 50 feet from any neighboring residence, whichever is the greater.
- .03 Only those commercial vehicles operated by a resident of the lot shall be parked on that lot.
- .04 A zoning permit is required to park a commercial vehicle as regulated in this section. The application shall be accompanied by a site plan detailing the layout and dimensions of the parking area.
- .05 Nothing in this section shall be construed to regulate or to limit the use, storage or parking of farm related vehicles off the public street.
- .06 Recreational Vehicle Storage as an Accessory Use to a Dwelling. The Township's Recreational Vehicle Ordinance shall apply.

1016 SPECIFIC REGULATIONS APPLYING TO CERTAIN USES

.01 Adult Book Store, Adult Motion Picture Theater, Cabaret or Massage Establishment

.011 No Adult Book Store, Adult Motion Picture Theater, Cabaret or Massage Establishment shall be located within 500 feet of any school, church, or the boundary of any other zoning district established by this Ordinance. The Board may authorize the establishment of an Adult Book Store, Adult Motion Picture Theater, Cabaret, or Massage Establishment within 500 feet of a school, church or the boundary of any zoning district, only if the following findings are made by the Board:

.0111 That the applicant has presented to the Board a petition which indicates approval of the proposed use by 51% of the persons owning, residing or doing business within a radius of 500 feet of the location of the proposed use. The applicant shall have attempted to contact all eligible locations within this radius, and must supply a list of all addresses at which no contact was made. The circulator of the petition shall have subscribed to an Affidavit attesting to the fact that the circulator personally witnessed the signatures on the petition and that the same were affixed to the petition by the persons whose names appear thereon.

.0112 That the proposed use will not adversely affect the safe and comfortable enjoyment of properties in the neighborhood and will not

be detrimental to the general character of the area.

1016 .01 .011 .0113 That the establishment of the proposed use in the area will not be contrary to any program of neighborhood conversation and will not interfere with any program of village renewal.

.012 No Adult Book Store, Adult Motion Picture Theater, Cabaret or Massage Establishment shall be conducted in a mobile home, or other readily transportable structure or unit.

.013 No Adult Book Store, Adult Motion Picture Theater, Cabaret, or Massage Establishment shall be approved without the applicant entering into a written agreement with the board of Supervisors that no advertising signs will be located within the Township respecting the proposed use, which agreement shall provide for the applicant being required to reimburse the Township for reasonable and necessary Court costs, Attorney's fees, witness fees, and incidental costs incurred by the Township in enforcing the agreement.

.02 Automotive and Machinery Repair Station

.021 All activities shall be performed within an enclosed building.

.022 Outdoor storage of automobiles and other vehicles shall only be in the rear and/or side yard and entirely enclosed with a fence, not less than six feet high, with screening.

.023 Outdoor storage of automobile parts and junk shall be prohibited.

.024 Fuel pumps shall be at least 25 feet from any future street right-of-way or 50 feet from the street centerline, whichever is greater.

.025 A use that is primarily intended to serve trucks with six or more wheels shall have a minimum lot area of four acres, and all areas used for the fueling and servicing shall be set back a minimum of 250 feet from all existing residential lot lines and residential zoning district boundaries.

.03 Automotive Gas Station

.031 The minimum lot width shall be 200 feet along each street on which the lot abuts.

.032 Fuel pumps shall be at least 25 feet from any

future street right-of-way or 50 feet from the street centerline, whichever is greater.

- .033 A use that is primarily intended to serve trucks with six or more wheels shall have a minimum lot area of four acres, and all areas used for fueling and servicing shall be set back a minimum of 250 feet from all existing residential lot lines and residential zoning district boundaries.

1016 .04 Automotive Service Station

- .041 The minimum lot width shall be 200 feet along each street on which the lot abuts.
- .042 All activities except those to be performed at the fuel pumps shall be performed within a completely enclosed building.
- .043 Fuel pumps shall be at least 25 feet from any future street line or 50 feet from the street centerline, whichever is greater.
- .044 All vehicular parts and dismantled vehicles shall be located within a building.
- .045 Vehicles that are taken to a service station for outside storage because of an accident may remain no longer than 60 days from the day the vehicle arrives at the station.
- .046 A use that is primarily intended to serve trucks with six or more wheels shall have a minimum lot area of four acres, and all areas used for fueling and servicing shall be set back a minimum of 250 feet from all existing residential lot lines and residential zoning district boundaries.

.05 Bank

- .051 A minimum of two access driveways shall be provided.
- .052 Any drive-in window(s) and waiting lane(s) shall be located and have capacity for sufficient numbers of vehicles to ensure that traffic conflicts and hazards are avoided within the site and along the adjoining streets.

.06 Bottling Plant

- .061 Any bottling or similar use shall demonstrate by study that its use of water will not have any adverse impact on the water supplies of the surrounding properties.

.062 All outside storage areas shall be entirely screened.

1016 .07 Car Wash

.071 Any car wash shall demonstrate, by way of a hydro-geologic analysis, that its consumption of water will not have any adverse impact on the water supplies of the surrounding properties when wells are used.

.072 A minimum of two access driveways shall be provided.

.073 Recirculating water supply facilities shall be provided.

.074 Any car wash that is located within 250 feet of an existing dwelling shall not operate between the hours of 10:00 pm and 7:00 am.

.08 Church

.081 The minimum lot area shall be one acre per 100 seating capacity of a church, with a minimum of an additional three acres if a school or recreational facility is to be located on the same site.

.09 Day Care Center

.091 All outdoor play areas shall be entirely enclosed with a fence, not less than four feet high.

.092 Outdoor play areas shall be limited to use between 8:00 a.m. and 8:00 p.m. and shall not be closer than 50 feet to any residential lot line or 30 feet to any commercial lot line.

.093 A letter from the applicable Federal or State agency that all Federal and State regulations for day care centers have been met shall be provided before the issuance of an occupancy certificate.

.094 Shall have constant supervision during all hours of operation.

.10 Hospital

.101 Letters from the applicable Federal and State agencies shall be provided to indicate that all Federal and State regulations for the facility have been met prior to the issuance of an occupancy certificate.

1016 .10 .102 The use shall provide a minimum of 20% of the site suitable and developed for passive recreation. This area shall include outdoor sitting areas and pedestrian walks.

.11 Membership Club

.111 All outdoor play areas shall be screened to protect the neighborhood from any noise and shall not operate between the hours of 10:00 p.m. and 7:00 a.m.

.112 All outdoor play areas shall be located no closer to any lot line than the required front yard depth.

.12 Planned Neighborhood Convenience Center

.121 Located on a lot of not less than two acres or more than five acres.

.122 Planned to include the following types of land use activities or similar uses thereto necessary to serve the neighborhood: grocery store, pharmacy, personal service establishments, medical or dental clinic, bank, restaurant excluding drive-through facilities, retail store, local government offices, library, day care center, laundromat, automotive gas station for automobile and light trucks.

.123 The above uses shall be permitted only when performed entirely within an enclosed building with the exception of fuel pumps.

.124 A minimum of two access driveways shall be provided.

.125 All proposed uses shall be submitted for the total development of the site.

.126 Governed by the sign regulations in Section 1017. Signs which portray the name of the planned neighborhood convenience center shall be limited to a total of two signs. There shall be only one identification sign for each entrance to each store, office, shop, or other establishment, such sign to be attached flat against the face of the building.

.13 Printing

.131 The use shall demonstrate that its use of water will not have any adverse impact on the water supplies of the surrounding properties.

.132 All outside storage areas shall be entirely screened and enclosed with a fence.

1016 .14 Retail Building Material Sales

.141 Outdoor storage areas shall only be in the rear and/or side yard and entirely enclosed with a fence, not less than six feet high, with screening.

.15 Self-storage Building

.152 Outside storage areas shall only be in the rear yard and entirely enclosed with a fence, not less than eight feet high, with screening.

.152 Outdoor storage of automobile parts and junk shall be prohibited.

.16 Swimming Pool, Private

.161 A private swimming pool shall not be located, constructed or maintained on any lot or land area, except in conformity with the requirements of these regulations.

.162 A permit shall be required to locate, construct, or maintain a private swimming pool.

.163 Such pool shall be not less than 20 feet from side and rear lot lines.

.164 Such pool shall be located at least 50 feet from any street right-of-way.

.165 No lighting or spot lighting shall be permitted which will shine directly beyond the bounds of the property or lot where such a pool is located.

.166 Any dam, pond, or water reservoir constructed for agricultural uses on a working farm provided it is within all yard requirements, is not subject to the private swimming pool regulations.

.17 Planned Cluster Development

.171 The purpose of the Planned Cluster Development is to permit, pursuant to Section 705 of the Pennsylvania Municipalities Planning Code, and subject to final approval by the Board of Supervisors, high-quality lot layouts, planning and landscaping designs for residential subdivisions and developments in the Rural Residential District. Furthermore, certain area and dimensional specifications may be altered pursuant to this section as a means for residential developers to

improve the feasibility of creating attractive and usable open space, preserving desirable natural features, and providing attractive and practical designs in lot layout, street alignment and building orientation while retaining the same overall density of development. All Planned Cluster Developments shall meet the requirements of this section.

- .172 A Planned Cluster Development in the Rural Residential District shall consist of single family detached dwellings and/or single family semi-detached dwellings on a tract of land not less than 30 contiguous acres under one common ownership.
- .173 The maximum density of development shall be one dwelling unit per acre, except those areas of the Planned Cluster Development which are identified as within the Environmental Protection District shall be computed at a maximum density of one dwelling per three acres.
- .174 A minimum of 30% of the lot area of the Planned Cluster Development shall be devoted to open space. Areas devoted to stormwater detention facilities, storm water controls, road and/or utility easements shall not qualify for the open space requirement.
- .175 A building setback of 50 feet shall be required along the perimeter of the Planned Cluster Development with the additional requirement of a building setback of 100 feet from any existing residence located on an adjacent lot.
- .176 All buildings within the Planned Cluster Development shall have a building setback of 20 feet.
- .177 Each building within the Planned Cluster Development shall maintain a minimum building setback of 50 feet from the centerline of any proposed public or private road except that a proposed public or private through road connecting two or more existing public roads shall maintain a minimum building setback of 75 feet from the centerline of the road. Waivers to the minimum setback of 75 feet from the centerline of the road may be granted by the Board of Supervisors in their sole discretion based upon circumstances involving individual traffic patterns or other compelling reasons.
- .178 Each building within the Planned Cluster Development shall maintain a minimum building setback of 75 feet from the centerline of any existing public or private road.

- 1016 .17 .179 Shared driveways between individual dwelling units are not permitted. Waivers to this rule may be granted by the Board of Supervisors in their sole discretion based upon circumstances of unusual topography or other compelling reasons, but in that case such a waiver will only be granted if the portion of the driveway which is not shared provides at least 30 feet of unshared driveway leading to the individual dwelling unit.
- .180 Each dwelling unit of three or more bedrooms shall provide a minimum of four off-street parking spaces and the driveway to that dwelling unit shall provide for a turn-around lane. Each dwelling unit of two or less bedrooms shall provide a minimum of three off-street parking spaces and the driveway to that dwelling unit shall provide for a turn-around lane.
- .181 All lots within the Planned Cluster Development shall have a minimum lot size of 12,500 square feet.
- .182 Areas for common open space may be dedicated to the Township if the dedication is acceptable to the Township. The Township shall have the final option to accept or reject dedication. If the areas for open space are not dedicated to the Township, they shall be reserved as open space in which case there shall be assurance of adequate provision for perpetual maintenance of said open space by inclusion of covenants running with the land in the deeds or other instrument of conveyance, delineating such open area in accordance with the following:
- .1821 The obligation of purchasers to participate in the proper operation and maintenance of all open spaces and community facilities shall be secured by an appropriate organization with legal responsibility for the same. If the dwelling units are sold, the organization may be a condominium, cooperative, or homeowners association of the dwelling unit owners, organized in a manner found by the Township to be legally effective and able to carry out its maintenance and operating responsibilities. It is the intention of this Ordinance to authorize the remedies provided in Section 705(f) of the MPC, 53 P.S 10705(f) and the same are hereby incorporated by reference.
- .1822 The remedies as authorized by Section 705(f) of the MPC shall also be incorporated into an agreement between the Township and the

organization/developer which shall be a part of the covenants or equivalent provisions described herein.

1016 .17 .182 .1823 Assurance that such covenants or equivalent provisions will be included in the deeds or other instruments of conveyance shall be evidenced by the recordation in the Carbon County Recorder of Deeds Office of a declaration providing for adequate perpetual maintenance of the open areas and community facilities, as prescribed hereinabove, and identifying the tract and lot therein. The declaration shall be included in the deed or other instrument of conveyance of each lot of record and shall be made binding on all purchasers; provided that such declaration may, as to subsequent conveyances other than the initial conveyance of each lot of record, be incorporated by reference in the instrument of conveyance.

1017 SIGNS

In all districts, signs may be erected, altered, maintained, used, removed or moved only in compliance with the provisions of this section and any other regulations of the Township relating to the erection, alteration, maintenance, use, removal or moving of signs and similar devices.

- .01 Maximum Permitted Sizes. In all districts, maximum permitted sizes of signs of each type shall be in accordance with the regulations contained in the following schedule, except name of farm or owner or decorative designs may be part of any building on a working farm describing that part of their agriculture or animal husbandry business.

SIGNS

District	Home Occupation	Identification of Business or Industrial Building or Use	Real Estate "For Sale" or "For Rent" Sign or Construction Sign	Advertising Sign
RR R EP	3 sq. ft.	6 sq. ft.	6 sq. ft.	Prohibited
VC	2 sq. ft.	12 sq. ft.	6 sq. ft.	Prohibited
BC IC	3 sq. ft.	32 sq. ft.*	32 sq. ft.	672 sq. ft.

* Except for each building wall or facade: Two square feet aggregate area for each one foot horizontal length of facade, but not to exceed an aggregate area of 120 square feet on any one facade, except as provided in Section 1017.0213. Not more than two building walls or facades shall be utilized per lot.

.02 Supplemental Sign Regulations

.021 An identification sign of a home occupation on a resident's building shall be fixed flat on the main wall of such building, and shall not project more than six inches or may be erected in the front yard. Such sign may be interior lighted.

.022 A Sign not over six square feet in area, fixed to the main wall of a church, parish house, club, school, or public or semi-public building shall be permitted, or may be erected in the front yard. Such sign may be interior

lighted. Not more than two such signs shall be permitted on a lot.

- 1017 .023 A real estate "for sale" or "for rent" sign, or a construction sign, shall apply only to the property upon which it is placed. Not more than two such signs shall be permitted on any one property or premise.
- .024 No sign shall be erected, hung, attached or displayed until a written application has been made to the Zoning Officer and a permit therefore has been duly issued by him or her upon payment of the established fee.
- .025 Setback from cartway. No sign shall be located within fifteen feet of the edge of a street cartway.
- .026 Projection. No sign shall project more than twelve inches from the building facade to which it is attached.
- .027 Height. No sign that is a part of or is supported by a building shall be erected upon the roof of such building, nor shall such a sign extend above the height of the building. No sign structure that is not a part of or supported by a building shall be more than eighteen feet in height above the average ground level at the base of such sign.
- .028 Clearance. No sign structure erected directly upon the ground shall have less than three feet of clear space between such sign and the ground, provided that necessary supports may extend through such open space.
- .029 Length. No sign structures erected directly upon the ground shall have an unbroken length of more than eight feet.
- .0210 Spacing. No sign structure erected directly upon the ground shall be within five feet of any other sign structure.
- .0211 Relationship to Street Intersection. No sign shall be erected, attached, or displayed within 25 feet of the point of intersection of the street lines at a street corner.
- .0212 Illumination. Signs may be interior lighted with non-glaring lights, or may be illuminated by shielded flood lights; provided, however, that no red, green or amber lights shall be permitted within 75 feet of the point of intersection of the street lines at a street corner. The following signs are prohibited: Banners, spinners, flags, pennants or any moving object used for commercial advertising purposes whether containing a message or not, and flashing, blinking, twinkling, animated or moving signs, not including signs that alternately display the time and the temperature. All

lights shall be shielded in such a manner that no detrimental light or glare will be created in the neighborhood.

1017.0213 Open Lettered Signs. In any commercial district, when a business sign or signs consists of open lettering through which at least two-thirds of the circumscribing plane surface of building facade remains directly visible, such sign or signs, on each building facade, may have an aggregate area of six square feet for each one foot horizontal length of such facade, but shall not exceed an aggregate area of 150 square feet, a height of 15 feet or a width of 20 feet on any one facade.

.0214 Road Marking Signs. Signs marking street names, road or intersection conditions, or other similar uses shall not be subject to the preceding provisions of Section 1017.

.0215 Temporary Sign. When date of specified public event, such as sale, show or contest is part of sign, one or two signs not exceeding a total surface area of 32 square feet may be erected 30 days prior to the event, in the front or side yard abutting street or lot where event will take place. Signs shall not conflict with Section 1009 and must be removed within 24 hours after the event. Garage sale signs shall be limited to 4 square feet.

.0216 Roadside Stand Directional Sign. A sign which states only the name, direction and distance to a roadside stand not exceeding two square feet may be erected for a period not exceeding ninety days in one calendar year. No sign shall conflict with Section 1009. A permit is required for each sign. Farm produce signs are exempt.

1018 NON CONFORMING USES AND NON CONFORMING BUILDINGS OR STRUCTURES

.01 Unlawful Uses Not To Be Construed As Nonconforming. An unlawful building or structure, or unlawful use of a building, structure, lot or land existing at the effective date of the Ordinance shall not be deemed to be a nonconforming building, structure, or use.

.02 Continuation of Nonconforming Uses. Any lawful use which occupies any building or structure, lot or land at the effective date of this Ordinance or any amendment thereto, but does not comply with the permitted, accessory or special exception use regulations of the district in which it is situated after the effective date of this Ordinance or any amendment thereto, may be continued as a nonconforming use in the building or structure or upon the lot or land so occupied.

1018 .03 Restoration.

- .031 The Zoning Officer may require the Planning Commission to approve the site plan before issuing a permit if a building or structure used as a nonconforming use is damaged wholly or partially by fire, explosion, flood or other phenomenon, or legally condemned as not habitable. The structure may be reconstructed and used the same as before, provided that the floor area of such use and the building or structure area of lot area shall not exceed that which existed prior to the damage or condemnation and that the reconstruction starts within six months and is completed within one year of damage or condemnation.
- .032 The Zoning Officer may require the Planning Commission to approve the site plan before issuing a permit to reconstruct, restore, repair, or structurally alter a nonconforming structure devoted to a conforming use, if partially or completely damaged or condemned providing construction starts within six months and is completed within one year of damage or condemnation or the building area is not located within the street right-of-way.
- .033 In case of hardship, time periods may be extended by application to the Board of Supervisors.

.04 Extension.

- .041 A nonconforming use shall not be enlarged or extended in any way except as provided in Section 1018.
- .042 For the purpose of the Ordinance a nonconforming use or structure exists only upon the lot on which it is actively engaged, constructed or affixed, and is not part of adjacent lots even if the adjacent lots are in the same ownership.
- .043 A nonconforming structure may be enlarged provided the floor area and height of addition is not greater than the existing structure and the front and side yard distance to the lot line is not less than the existing structure and has the same use.

.05 Change of Use

- .051 A nonconforming use may be changed to a conforming use, or to another nonconforming use pursuant to Section 1018.

1018 .05 .052 A nonconforming use of a building or land that has been changed to a more restricted classification shall not thereafter be changed to a use of a less restricted classification.

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

06 Termination

A nonconforming use shall be deemed to have been terminated and shall not thereafter be reinstated:

.061 When it is changed to a conforming use.

.062 When it has been voluntarily discontinued for a period of twelve consecutive months.

.07 Repairs and Maintenance

Normal maintenance and repairs of a building or other structure containing a nonconforming use is permitted, provided it does not extend the floor area occupied by the nonconforming use.

.08 Identification of Nonconforming Use or Structure

The Zoning Officer may identify and register nonconforming uses, structures and lots in the Township of East Penn, as an aid to the enforcement of this Ordinance. Failure by the Zoning Officer to identify and register a nonconforming use or structure is not to be construed as a recognition that a use, structure or lot is in conformance with the ordinance.

1019 MINING AND RECLAMATION

.01 To establish areas for mining. As mining takes place, the mined land shall be systematically reclaimed to open space land use. A return of the natural plant and animal life to the MR areas shall be required to the extent possible. All State and Federal mine reclamation standards shall be followed by the property owner or lessee as a basis for the use of land in these areas.

.02 Location where permitted. Mining and excavating operations shall be considered a temporary use of land and may be permitted as a Special Exception Use in all Zoning Districts in the Township. Such mining operations shall be permitted only for limited periods of time, as specified below, subject to appropriate conditions and safeguards.

1019 .03 Restrictions. All mining and excavation operations shall be subject to the following restrictions:

a. Backfilling. The grading, backfilling and replacement of all overburden materials in a manner which will restore the premises to the same or more suitable and useable grade as existed on the original site is required.

b. Fencing. The Zoning Hearing board may require that all or portions of excavating operations be enclosed with a fence to ensure the general welfare and public safety.

c. Drainage. All such excavations and backfilling operations must be adequately drained to prevent the formation of pools of water.

d. Compliance with State Requirements. No permit issued under the provisions of this Ordinance shall become effective until any required license or permit required from the Commonwealth of Pennsylvania is secured.

e. Blasting. Any blasting operation shall conform with the regulations enforced by the DEP or other agencies with jurisdiction. Blasting shall not be permitted between the hours of 5:00 PM and 8:00 AM and shall not be permitted on Sundays or legal holidays.

f. Sunday Closing. No such operation shall be carried out on Sundays, nor between the hours of 11:00 PM and 6:00 AM on all other weekdays, without the prior written permission of the East Penn. Township Board of Supervisors.

1019 .04 Application for Permits. All applications for Zoning Permits for mining or excavation operations shall comply with the following procedure.

a. Application to Zoning Officer. Any applicant for mining or excavation operation shall submit five copies of an application. Such application shall include the following:

1. A letter of intent describing the area to be mined and the manner or method of operating, including proposed hours of work, and the proposed plan for reclamation.

2. Two site plans or prints of the area to be mined, prepared by the applicant's engineer and approved by his attorney.

3. A copy of the applicant's State Mining Permit.

4. A copy of the lease or mineral rights agreements of the property to be mined.

5. A statement that a bond, payable to the Township, shall be provided in an amount to be estimated by the Township Engineer which will insure replacement of the overburden material and the reclamation of the area to be excavated.

1019.04

b. Review of Application. The Zoning Officer will review the application and submit copies to the Zoning Hearing Board and the Planning Commission. Within 45 days of the receipt of the application, the Planning Commission shall transmit its recommendations to the Zoning Hearing Board. Such recommendations shall include any conditions and safeguards deemed necessary to insure the public health, safety, and general welfare. The Zoning Hearing Board shall meet, hold a public hearing, and review the recommendations and findings of the Planning Commission, and shall order the Zoning Officer to refuse the permit or to issue the permit subject to the execution of a reclamation agreement and bond and to any other conditions deemed necessary by the Board to insure the public health, safety, and general welfare.

c. Failure to Comply. If any permittee hereunder fails to, or refuses to comply with the agreement to reclaim the area mined, or with the reasonable orders of the Township Engineer, the Township Solicitor, or with the requirements of this Ordinance, the Township shall proceed to sue on the bond submitted and collect the amount of liability on such bond.

ARTICLE 11
ZONING HEARING BOARD

1100 **GENERAL GRANT OF POWER.** The Board shall perform all the duties and have all the powers prescribed by the MPC and as herein provided.

1101 **GENERAL PROVISIONS**

.01 Membership of Board

.011 The membership of the Board shall consist of three residents of the municipality appointed by resolution by the governing body. The terms of office of a three member Board shall be three years and shall be so fixed that the term of office of one member shall expire each year. The Board shall promptly notify the governing body 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 municipality.

.012 The governing body may appoint by resolution at least one, but no more than three, residents of the municipality to serve as alternate members of the Board. The term of office of an alternate member shall be three years. When seated pursuant to the provisions of Section 906 of the MPC, 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 the proceedings, and shall have all the powers and duties set forth in this act and as otherwise provided by law. Alternates shall hold no other office in the municipality, including membership of the Planning Commission and Zoning Officer. Any alternate may participate in any proceeding or discussion of the Board but shall not be entitled to vote as a member of the Board nor be compensated pursuant to Section 907 of the MPC unless designated as a voting alternate member pursuant to Section 906 of the MPC.

1101 **.02 Organization of Board**

.021 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, but the Board may appoint a hearing officer from its own membership to conduct any hearing on its behalf and the parties may waive further action by the Board as provided in Section

1101 .02 .022 If, by reason of absence or disqualification of a member, a quorum is not reached, the chairman of the Board shall designate as many alternate members of the Board to sit on the Board as may be needed to provide a quorum. Any alternate member of the Board shall continue to serve on the Board in all proceedings involving the matter or case for which the alternate was initially appointed until the Board has made a final determination of the matter or case. Designation of an alternate pursuant to this section shall be made on a case-by-case basis in rotation according to declining seniority among all alternates.

.023 The Board may make, alter and rescind rules and forms for its procedure, consistent with ordinances of the municipality and laws of the Commonwealth. The Board shall keep full public records of its business, which records shall be the property of the municipality, and shall submit a report of its activities to the governing body as requested by the governing body.

.03 Removal of Members. Any Board member may be removed for malfeasance, misfeasance or nonfeasance in office or other just cause by a majority vote of the Board of Supervisors, taken after the member has received 15 days advance notice of the intent to take such a vote. A hearing shall be held in connection with the vote if the member shall request it in writing.

.04 Expenditures for Services. Within the limits of funds appropriated by the Board of Supervisors, the Board may employ or contract for secretaries, clerks, legal counsel, consultants and other technical and clerical services. Members of the Board and alternate members of the Board may receive compensation for the performance of their duties, as may be fixed by the Board of Supervisors, but in no case shall it exceed the rate of compensation authorized to be paid to the members of the Board of Supervisors.

1102 HEARINGS

The Board shall conduct hearings and make decisions in accordance with the following requirements:

1102 .01 Public notice shall be given and written notice shall be given to the applicant, The Zoning Officer, those property owners within 200 feet of the property line and to any person who has made timely request for the same. Public notice shall be given at such time and in such manner as prescribed in the Definitions. Written notice to the property owners within 200 feet shall be given by

applicant by certified mail and shall be mailed two weeks prior to the hearing. Evidence of notification and service shall be presented at the hearing. In addition to the written notice provided herein, written notice of said hearing shall be conspicuously posted by the Zoning Officer on the affected tract of land at least one week prior to the hearing. The Board of Supervisors may by resolution establish reasonable fees, based on cost, following the guidelines of Section 908(1.1)(7) of the MPC, to be paid by the applicant and by persons requesting any notice not required by ordinance.

- .02 The hearings shall be conducted by the Board or the Board may appoint any member as a hearing officer. The decision, or, where no decision is called for, the findings shall be made by the Board; however, the appellant or the applicant, as the case may be, in addition to East Penn Township may, prior to the decision of the hearing, waive decision or findings by the Board and accept the decision or findings of the hearing officer as final.
- .03 The hearing shall be held within 60 days from the date of the applicant's request, unless the applicant has agreed in writing to an extension of time.

1103 PARTIES

The parties to the hearing shall be the municipality, any person affected by the application who has made timely appearance of record before the Board, and any other person including civic or community organizations permitted to appear by the Board. The Board shall have the power to require that all persons who wish to be considered parties enter appearances in writing on forms provided by the Board for that purpose.

- .01 The chairman or acting chairman of the Board or the hearing officer presiding shall have the power to administer oaths and issue subpoenas to compel the attendance of witnesses and the production of relevant documents and papers, including witnesses and documents requested by parties.
- .02 The parties shall have the right to be represented by counsel and shall be afforded the opportunity to respond and present evidence and argument and cross-examine adverse witnesses on all relevant issues.
- .03 Formal rules of evidence shall not apply, but irrelevant, immaterial, or unduly repetitious evidence may be excluded.
- .04 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 either event the cost of additional copies shall be paid by the person requesting such copy or copies. In other cases the party requesting the original transcript shall bear the cost thereof.

1103 .05 The Board or the hearing officer shall not communicate, directly or indirectly, with any party or his representatives in connection with any issue involved except upon notice and opportunity for all parties to participate, shall not take notice of any communication, reports, staff memoranda, or other materials except advice from their solicitor unless the 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 representatives unless all parties are given an opportunity to be present.

.06 The Board or the hearing officer, as the case may be, shall render a written decision or, when no decision is called for, make written findings on the application within 45 days after the last hearing before the Board or hearing officer. Where 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 MPC or of this ordinance, rule or regulation shall contain a reference to the provision relied on and the reason why the conclusion is deemed appropriate in the 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 within 45 days and the parties shall be entitled to make written representations thereon to the Board prior to final decision or entry of findings, and the Board's decision shall be entered no later than 30 days after the report of the hearing officer. Where the Board fails to render the decision within the period required by this subsection, or fails to hold the required hearing within 60 days from the date of the applicant's request for a 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. When a decision has been rendered in favor of the applicant because of the failure of the Board to meet or render a decision as hereinabove provided, the Board shall give public notice of said decision within 10 days from the last day it could have met to render a decision in the same manner as provided in Section 1102.01 of this section. If the Board shall fail to provide such notice,

the applicant may do so. Nothing in this subsection shall prejudice the right of any party opposing the application to appeal the decision to a court of competent jurisdiction.

- .07 A copy of the final decision or, where no decision is called for, of the findings, shall be delivered to the applicant personally or mailed to him not later than the day following its date. To all other persons who have filed their name and address with the Board not later than the last day of the hearing, the Board shall provide by mail or otherwise, brief notice of the decision or findings and a statement of the place at which the full decision or findings may be examined.

1104 MEDIATION OPTION

- .01 Parties to proceedings authorized in this section and Article X-A of the MPC may use mediation as an aid in completing such proceedings. In proceedings before the Board, in no case shall the Board initiate mediation or participate as a mediating party. Mediation shall supplement, not replace, those procedures in this section and Article X-A of the MPC once they have been formally initiated. Nothing in this section shall be interpreted as expanding or limiting municipal powers or as modifying any principles of substantive law.
- .02 Participation in mediation shall be wholly voluntary. The appropriateness of mediation shall be determined by the particulars of each case and the willingness of the parties to negotiate. The Township shall assure that, in each case, the mediating parties, assisted by the mediator as appropriate, develop terms and conditions for:
- .021 Funding mediation.
 - .022 Selecting a mediator who, at a minimum, shall have a working knowledge of municipal zoning and subdivision procedures and demonstrate skills in mediation.
 - 1104 .02 .023 Completing mediation, including time limits for such completion.
 - .024 Suspending time limits otherwise authorized in this act, provided there is a written consent by the mediating parties, and by an applicant or municipal decision making body if either is not a party to the mediation.
 - .025 Identifying all parties and affording them the opportunity to participate.

1104 .02 .026 Subject to legal restraints, determining whether some or all of the mediation sessions shall be open or closed to the public.

.027 Assuring that mediated solutions are in writing and signed by the parties, and become subject to review and approval by the appropriate decision making body pursuant to the authorized procedures set forth in the MPC.

.03 No offers or statements made in the mediation sessions, excluding the final mediated agreement, shall be admissible as evidence in any subsequent judicial or administrative proceedings.

1105 JURISDICTION

The Board shall have exclusive jurisdiction to hear and render final decisions in those matters set out in Section 909.1 of the MPC. Nothing contained herein shall be construed to deny to the appellant the right to proceed directly in court, where appropriate pursuant to Pennsylvania R.C.P., Section 1091 (relating to action in mandamus).

1106 VALIDITY OF ORDINANCE; SUBSTANTIVE QUESTIONS

A landowner who, on substantive grounds, desires to challenge the validity of the Ordinance or Map in any provision thereof which prohibits or restricts the use or development of land in which he has an interest shall submit the challenge in the manner set forth in Section 916.1 of the MPC.

1107 PARTIES APPELLANT BEFORE THE BOARD

Appeals under Section 1105 may be filed with the Board in writing by any officer or agency of the municipality or any person aggrieved. Requests for a variance under Section 1111 and for special exception under Section 1110 may be filed with the board by any landowner or tenant with the permission of such landowner.

1108 TIME LIMITATIONS

.01 No person shall be allowed to file any proceeding with the Board later than 30 days after an application for 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 pursuant to Section 709 of the MPC or from an adverse

decision by a Zoning Officer on a challenge to the validity of an ordinance or map pursuant to Section 916.2 of the MPC shall preclude an appeal from a final approval except in the case where the final submission substantially deviates from the approved tentative approval.

- .02 All appeals from determinations adverse to the landowners shall be filed by the landowner within 30 days after notice of the determination is issued.

1109 STAY OF PROCEEDINGS

- .01 Upon filing of any proceeding referred to in Section 1107 and during its pendency before the Board, all land development pursuant to any challenged ordinance, order or approval of the Zoning Officer or 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 of official action shall not be stayed otherwise than by a restraining order, which may be granted by the Board or by the court having jurisdiction of zoning appeals on petition after notice to the Zoning Officer or other appropriate agency or body. When an application for development, preliminary or final, has been duly approved and proceedings designed to reverse or limit the approval are filed with the Board by persons other than the applicant, the applicant may petition the court having jurisdiction of zoning appeals to order such persons to post bond as a condition to continuing the proceedings before the Board.

1110 SPECIAL EXCEPTION USES

- .01 Grant of Power. In addition to and apart from the power to grant or recommend variances pursuant to Section 1111 the Board shall also have original jurisdiction and power, after advisory report by the Planning Commission, to grant a permit for a special exception use on a particular site. In granting a special exception, the Board may attach such reasonable conditions and safeguards in addition to those expressed in the Ordinance, as it may deem necessary to implement the purposes of this Zoning Ordinance.
- .02 Guiding Principles for Standards
 - .021 Such use shall be one which is specifically authorized as a special exception use in the district within which such particular site is located.

.022 For every special exception use, the Board shall make special finding, after a public hearing in the manner provided by law, that such use will not be prejudicial to the character of the neighborhood.

.03 Procedure

.031 Application for a permit authorizing a special exception use shall be made directly to the Township Secretary's office in the form required by the said Board, to be distributed to the Planning Commission members.

.032 The Board's decision to grant a permit for a special exception use shall be made only after public and other notification, and hearing pursuant to the requirements of Section 1102. Said permit shall apply specifically to the application and plans submitted and presented at said public hearing. Any subsequent amendments or additions shall be subject to review and public hearing by the Board as a special exception use.

.033 No application for a permit shall be granted by the Board for any special exception use, until said Board has first received and considered an advisory report thereon from the Planning Commission with respect to the location of such use in relation to the needs and growth pattern of the Township, and where appropriate, with reference to the adequacy of the site area and the arrangements of the buildings and other pertinent features of the site plan. The Planning Commission shall have 60 days from the date of its receipt of the application, within which to file its report thereon. In the event that the Planning Commission fails to file its report within 60 days, such application shall be deemed to have been approved by the Planning Commission. The Planning Commission may have representation at the public hearing held by the Board on such application.

.034 A special exception use, for which a permit is granted by the Board pursuant to the provisions of this section, shall be construed to be a conforming use. A special exception expires after 24 months if applicant fails to obtain a zoning or building permit.

1111 VARIANCES

The Board shall hear requests for variances where it is alleged that the provisions of the Zoning 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 when relevant in a given case:

- .01 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 circumstances or conditions generally created by the provisions of the Zoning Ordinance in the neighborhood or district in which the property is located;
- .02 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;
- .03 That such unnecessary hardship has not been created by the appellant;
- .04 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;
- .05 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;
- .06 In granting any variance, the Board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of the MPC and the Zoning Ordinance.
- .07 A special exception or variance expires after 24 months if the applicant fails to obtain a zoning or building permit.

**ARTICLE 12
ADMINISTRATION AND ENFORCEMENT**

1200 INTERPRETATIONS

In applying and interpreting the provision of this Ordinance they shall be held to the minimum requirements adopted for the promotion of the public health, safety, morals, comfort, convenience, and general welfare. The following specific regulations shall apply:

- .01 Where a lot is formed from part of a lot already improved, the separation must be made in such a manner as not to impair any of the provisions of this Ordinance, whether related to the then existing improvements or to a proposed or future new improvement on the lot so formed, and in such a manner that both the remainder of the formed lot and the new lot so formed shall comply with the lot area and width provisions of this Ordinance.
- .02 A minimum required lot or yard size for one building or structure shall not be used as any part of a required lot or yard for a second structure.
- .03 The required lot or yard for an existing building or structure shall not be diminished below the minimum requirements of this Ordinance.
- .04 The parking spaces required for one building or structure or use shall not be included in the computation of required parking spaces for a second building or structure or use.

1201 RELATIONS OF ZONING ORDINANCE TO OTHER PROVISIONS OF LAW, AND TO PRIVATE COVENANTS

- .01 Nothing contained in this Ordinance shall be taken to repeal, abrogate, annul or in any way impair or interfere with any provisions of law or ordinance or regulations, existing or as may be adopted in the future. Nor is it intended by this Ordinance to interfere with or abrogate or annul any easements, covenants or other agreements between parties. Where this Ordinance imposes a greater restriction upon the use of buildings, structures, premises, lot or land, or upon the height of buildings or structures, or requires larger lots, yards, courts or other open spaces than imposed or required by such other provisions of law, ordinance, or regulation, or by such easements, covenants or agreements, the provisions of this Ordinance shall control.
- .02 Wherever the provisions of any other law or ordinance or regulations impose a greater restriction than this Ordinance, the provisions of such other law or ordinance or regulations shall control.

1201 .03 No provisions contained in this Ordinance shall be construed as justifying the encroachment of any building or structure within any street lines now or hereafter laid down on the Official Township Map.

1202 APPOINTMENT AND POWERS OF ZONING OFFICER

.01 Duties

A Zoning Officer, who shall not hold any elective office in the Township, shall be appointed by the Board of Supervisors. The Zoning Officer shall meet qualifications established by the Township and shall be able to demonstrate to the satisfaction of the Township a working knowledge of municipal zoning. It shall be the duty of the Zoning Officer to administer and enforce the provisions of this Ordinance, in accordance with its literal terms. He shall not have the power to permit any construction or any use or change of use which does not conform to this Ordinance. Should the said Zoning Officer be in doubt as to the meaning or intent of any provision of this Ordinance, or as to the location of any district boundary line on the Zoning Map, or as to the propriety of issuing a building or zoning permit in a particular case related to the provisions of this Ordinance, he shall appeal the matter to the Board for interpretation and decision. The Zoning Officer shall adopt rules of procedure, consistent with this Ordinance, for the purpose of assuring efficient and uniform administration of its provisions.

.02 Inspection of Premises

The Zoning Officer and his deputies and assistants, after notification to owner and occupant and at a time agreeable to all parties involved, shall have the right and authority, at a time agreeable to both parties, to enter any building, structure, premises, lot or land, whether already erected or put into use, or in the course of erecting and putting into use, for the purpose of determining whether or not the provisions of this Ordinance are being complied with.

1203 BUILDING PERMITS

.01 All procedure with respect to applications for any issuance of building permits shall be in conformity with the provisions of the Township Building Permit Ordinance. All such applications shall be accompanied by such other information as may be necessary to determine and provide for the enforcement of the Ordinance.

.02 Plot Plans

A plot plan shall be presented in accordance with the East Penn Township Building Permit Ordinances.

.03 Building Permits

No building permit shall be issued for the erection, construction, reconstruction, enlargement, structural alteration, or relocation of a building or structure, or part thereof, unless the plans and intended use indicate that such building or structure is designed and intended to conform in all respects to the provisions of this Ordinance.

1203 .04 Completion of Buildings for Which Permits Have Been Issued

Nothing in this Ordinance shall require any change in the plans, construction or designated use of a building or structure for which a lawful building permit has been issued prior to the effective date of this Ordinance or any amendment thereto affecting such building or structure or the use thereof, provided that:

.041 The construction of such building or structure shall have been begun and diligently prosecuted within three months from the date of such permit.

.042 The ground story framework, including the second tier of beams, shall have been completed within six months from the date of such permit.

.043 The entire building or structure shall be completed according to such filed and approved plans upon which the issuance of such permit was based, within one year from the effective date of this Ordinance or any such amendment thereto. An extension can be considered in case of hardship.

.044 In the event Section 1203.041, 1203.042 or 1203.043 are not complied with, such building permit shall be revoked by the Zoning Officer.

1204 ZONING PERMITS

.01 Change of Use

It shall be unlawful to use or to permit the use of any building, structure, premises, lot or land or part thereof, hereafter erected or altered, enlarged or moved, in whole or in part, after the effective date of this Ordinance, or any building, structure, lot or land, or part thereof of which the use is changed, until a zoning permit has been obtained by the record owner.

.02 Ordinance Conformity

A building and zoning permit shall be issued for any building, structure, lot or land, if the erection, construction, reconstruction, enlargement, structural

alteration, or relocation of a building or structure, or part thereof, and the intended use thereof are in conformity in all respects with the provisions of this Ordinance.

1204 .03 Special Exception

The Zoning Officer shall obtain a written order from the Board before issuing a building and zoning permit in a case involving a special exception use pursuant to Section 1110 or a variance from the provisions of this Ordinance pursuant to Section 1111.

1205 FEES

Fees for building and zoning permit applications, and for appeals shall be as provided by the Township Resolutions.

1206 VIOLATIONS, PENALTIES AND REMEDIES

.01 Enforcement Notice

.011 If it appears to the Township that a violation of this Ordinance has occurred, the Township shall initiate enforcement proceedings by sending an enforcement notice to the owner of record of the parcel on which the violation has occurred, to any person who has filed a written request to receive enforcement notices regarding that parcel, and to any other person requested in writing by owner of record.

.012 An enforcement notice shall state at least the following:

.0121 The name of the owner of record and any other person against whom the Township intends to take action.

.0122 The location of the property in violation.

.0123 The specific violation with a description of the requirements which have not been met, citing in each instance the applicable provisions of the ordinance.

.0124 The date before which the steps for compliance must be commenced and the date before which the steps must be completed.

.0125 That the recipient of the notice has the right to appeal to the Board within a prescribed period of time in accordance with procedures set forth in the ordinance.

.0126 That failure to comply with the notice within

the time specified, unless extended by appeal to the Board, constitutes a violation with possible sanctions clearly described.

1206 .02 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 enacted under the MPC or prior enabling laws, the Board of Supervisors or, with the approval of the Board of Supervisors, an officer of the 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 proceeding 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. When any such action is instituted by a landowner or tenant, notice of that action shall be served upon the Township at least 30 days prior to the time the action is begun by serving a copy of the complaint on the Board of Supervisors of the Township. No such action may be maintained until such notice has been given.

.03 Enforcement Remedies

.031 Any person, partnership or corporation who or which has violated or permitted the violation of the provisions of this Ordinance enacted under the MPC shall, upon being found liable therefore in a civil enforcement proceeding commenced by the Board of Supervisors, pay a judgment of not more than \$500.- plus all court costs, including reasonable attorney fees incurred by the Board of Supervisors as a result thereof. 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, the Board of Supervisors 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 was a good faith basis for the person, partnership or corporation violating the ordinance to have believed that there was no such violation, in which event 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 zoning ordinances shall be paid over to the Township of East Penn.

1206 .03 .032 The Court of Common Pleas of Carbon County, upon petition, may grant an order of stay, upon cause shown.

.033 Nothing contained in this section shall be construed or interpreted to grant to any person or entity other than the Board of Supervisors the right to commence any action for enforcement pursuant to this section.

1207 PUBLIC RECORDS

Duly certified copies of this Ordinance and of the Zoning Map which forms a part thereof, together with copies of all amendments hereto, shall be filed in the Township Secretary's office and shall be open to public inspection.

1208 PROCEDURE FOR AMENDMENT

.01 Power to Amend

The regulations, restrictions and boundaries set forth in this Ordinance, may from time to time be amended, supplemented, changed or repealed through amendment by the Township Supervisors.

.02 Enactment of Zoning Ordinance Amendments

.021 Before voting on the enactment of amendment, the Board of Supervisors shall hold a public hearing thereon, pursuant to public notice. In addition, if the proposed amendment involves a Zoning Map change, notice of said public hearing shall be conspicuously posted by the Board of Supervisors at points deemed sufficient by the Board of Supervisors along the perimeter of the tract to notify potentially interested citizens. The affected tract or area shall be posted at least one week prior to the date of the hearing.

.022 In the case of an amendment other than that prepared by the Planning Commission, the Board of Supervisors shall submit each such amendment to the Planning Commission at least 30 days prior to the hearing on such proposed amendment to provide the Planning Commission an opportunity to submit recommendations.

.023 If, after any public hearing held upon an amendment, the proposed amendment is changed substantially, or is revised, to include land previously not affected by it, the Board of

Supervisors shall hold another public hearing, pursuant to public notice, before proceeding to vote on the amendment.

.024 Before adoption of an amendment to the Zoning Ordinance, the Board of Supervisors shall publish, advertise, and make available copies of the proposed amendment pursuant to the requirements of Section 610 of the MPC.

.025 At least 30 days prior to the public hearing on the amendment, the municipality shall submit the proposed amendment to the County Planning Commission for review and recommendations.

1208 .03 Landowner Curative Amendments

A landowner who desires to challenge on substantive grounds the validity of the Zoning Ordinance or Map or any provisions thereof, which prohibits or restricts the use or development of land in which he has an interest may submit a curative amendment to the Board of Supervisors with a written request that his challenge and proposed amendment be heard and decided as provided in Section 916.1 of the MPC. The Board of Supervisors shall commence a hearing thereon within 60 days of the request provided in Section 916.1 of the MPC. The curative amendment and challenge shall be referred to the Planning Commission as provided in Section 609.1 of the MPC and notice of the hearing thereon shall be given as provided in Section 610 and Section 916.1 of the MPC.

.04 Municipal Curative Amendments

If the Board of Supervisors determines that its Zoning Ordinance or any portion thereof is substantially invalid, it shall take the actions as set forth more fully in Section 609.2 of the MPC.

1209 EXEMPTIONS

This Ordinance shall not apply to any highway safety shelter which shall be approved by the respective agencies as required by the Highway Safety Shelter Ordinance, or 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.

1210 VALIDITY

If any article, section, subsection, paragraph, clause, phrase or provision of this Ordinance or the location of any district boundary shown on the Zoning Map that forms a part hereof

shall be adjudged invalid or held unconstitutional, the same shall not affect the validity of the Ordinance or Zoning Map as a whole or any part or provisions hereof other than the part so adjudged to be invalid or unconstitutional.

1211 EFFECTIVE DATE

This Ordinance shall become effective five days after adoption, as required by law.

1212 GENERAL REPEALER

All Ordinances or parts thereof that are inconsistent with the above are herein repealed to the extent of the inconsistency.

DULY ENACTED AND ORDAINED into an Ordinance

this 22nd day of July, 1996 by the Board of Supervisors

in lawful session and duly assembled.

TOWNSHIP OF EAST PENN:

BY:

Joseph Chitt
Declan E. Scherer Jr.
Red W. Smith
Steve [unclear]

attest:

Naurene Elsass

Naurene Elsass
Secretary

ORDINANCE NO. 2001-

**ZONING ORDINANCE AMENDMENT REGARDING
CELLULAR TOWERS AND COMMUNICATION
ANTENNA.**

WHEREAS, the Board of Supervisors of East Penn Township have enacted an Ordinance known as the Zoning Ordinance of East Penn Township; and

WHEREAS, the Board of Supervisors of East Penn Township, in order to promote the general welfare of the Township deem it advisable to amend said Ordinance.

NOW THEREFORE, be it enacted and ordained by the Board of Supervisors of East Penn Township that the aforementioned Ordinance is amended as follows:

1. A new Section 1020 shall be added to the Ordinance and shall read as follows:

1020. Cellular Towers/Communication Antenna

1020.1 Definitions:

Cellular Telephone Network: A system providing portable telephone service to specific subscribers.

Communication Antenna: Any device used for the transmission or reception of radio, television, wireless telephone, pager, commercial mobile radio service or any other wireless communications signals, including without limitation to omnidirectional or whip antennas and directions or panel antennas, owned or operated by any person or entity licensed by the Federal Communication Commission (FCC) to operate such a device. This definition shall not include private residence mounted satellite dishes, television antennas, or amateur radio equipment including without limitations to ham or citizens band radio antennas.

Communication Equipment Building. An unmanned building or cabinet containing communications equipment required for the operation of a communications antenna and covering an area on the ground not greater than 250 square feet.

Communication Tower. A structure other than a building, such as a monopole, self-supporting or guyed tower, designed and used to support communications antennas. A structure in excess of 35 feet in height, and its necessary auxiliary components, proposed by a public, semipublic or private entity for the purpose of sending and receiving electronic or analogous signal as an integral component of a communications system, including but not limited to radio tower, cellular phone transmission towers, microwave towers, and common-carrier towers.

Height of a Communication Tower. The vertical distance measured from the ground level to the highest point on a communication tower, including antennas mounted on the tower.

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 does not need to follow the guidelines set within the telecommunications ordinance.

1020.2 Permitted by Special Exception:

Communication Towers shall be permitted by special exception in the industrial commercial district, business commercial district, rural district and rural residential district. Section 403, Section 503, Section 703, and Section 803 shall be amended accordingly to reflect that this use shall be permitted by special exception in this district. All communication towers shall be subject to the conditions and regulations of this Ordinance.

1020.3 Regulations Governing Communication Towers.

- A. The applicant shall be required to demonstrate, using technological evidence that the communication tower must be located where it is proposed.
- B. The applicant must demonstrate that the communication tower is the minimum height required to function satisfactorily. The maximum height is 200 feet; anything higher would require a variance from the Zoning Hearing Board.

- C.** The applicant shall demonstrate that the proposed communication tower support structure is safe and that the surrounding area will not be negatively affected by support structure failure, falling ice, or other debris, electromagnetic fields, radio or satellite frequency interferences.
- D.** The applicant shall demonstrate the communications antennas shall not cause radio frequency interference with other communications facilities located within East Penn Township.
- E.** A fence shall be required around the communication tower and other equipment. The fence shall be at least eight feet in height. Any wire on top of the fence shall not be included in the measurement of the height of the fence.
- F.** All guy wires associated with the guyed communications tower shall be clearly marked to be visible at all times and shall be located within a fenced enclosure.
- G.** Access shall be provided to the communications tower and communications equipment building by means of a public street or easement to a public street. The easement shall be a minimum of 20 feet in width and shall be improved to a width of at least ten (10) feet with a all weather surface for its entire length.
- H.** No signs or lights shall be mounted on a communication tower, except as may be required by Federal Communications Commission (FCC), Federal Aviation Administration (FAA), or other governmental agency, which has jurisdiction.
- I.** The following landscaping shall be required to screen as much of the support structure as possible, the fence surrounding the support structure and any other ground level features (such as buildings):
- (1)** An evergreen screen shall be required to surround the site. The screen can be either a hedge or row of evergreen trees. The evergreen screen shall be a minimum height of six feet at planting and shall grow to be a minimum of fifteen feet at maturity. Said evergreen screen shall be planted on the outside of the fence at least fifteen feet from the fence; and
 - (2)** In addition, existing vegetation on and around the site shall be preserved to the greatest extent possible.

- J.** If the communication tower is fully automated two off-street, parking spaces shall be required. If the communication tower is not fully automated, the number of required parking spaces shall equal the number of people in the largest shift but in any event, may not be less than two off-street spaces.
- K.** All other uses associated with the communication tower, such as a business office, maintenance depot or vehicle storage, shall not be located on the site unless the use is otherwise permitted in the zoning district in which the site is located:
- L.** In order to reduce the number of communication towers needed in the township in the future, any proposed support structure shall be designed to accommodate other users, including but not limited to, police, fire, and emergency services.
- M.** The applicant shall obtain a building permit in accordance with any applicable building code before commencement of construction or any modification of any communication tower.
- N.** Communication towers shall meet all applicable Federal Aviation Administration regulations. No communication tower may be artificially lighted except when required by Federal Aviation Administration or by state regulations.
- O.** If the use of the communication tower requires licensing by any state or federal agency, including, but not limited to the Federal Communication Commission, the applicant shall present evidence that it has obtained such license. The applicant shall submit a copy of its current FCC license; the name, address, and emergency telephone number for the operator of the Communication Tower; and 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 per occurrence covering the Communication Tower and Communication Antennas.
- P.** Communication towers shall be dark green in color up to the height of the nearby trees to lessen visual impact. Above that height, communication towers shall be painted silver, have a galvanized finish, or be of some other color that will minimize their visual impact.
- Q.** A full site plan prepared by either a registered surveyor or a professional engineer, with elevation prepared by a professional engineer, shall be required for communication tower sites, showing the communication tower, buildings, fences, buffering, access and any accessory structures.

- R.** The minimum front, rear, and side yard setback requirements for all buildings and structures on said lot shall be to the minimum setback requirements of the district in which the lot is located or equal to the height of the highest building, structure or tower on the lot whichever is greater.
- S.** Communication towers shall be set back a distance of at least 110% of their height from any building on the same lot as the communication tower except buildings accessory to the communication tower.
- T.** Communication towers shall be maintained in an operational state with no structural defects or visible damage to said communication tower.
- U.** Additional location restrictions:
- (1) Except as hereinafter stated, any communication tower which exceeds the maximum building limitation of the zoning district in which the lot is located, and is 75 feet in height or more, shall not be located within 1,000 feet of any of the following:
 - (a) A street (except a new street built to access the communication tower).
 - (b) Dwellings and any similar place of human habitation.
 - (c) Governmental buildings, schools, hospitals, and other similar public, institutional and community buildings.
- V.** In the event a communication tower ceases operation or use on a lot for a period of twelve (12) consecutive months, the communication tower and any auxiliary components, which exceed the maximum building height limitation of the zoning district in which the lot is located, the owner or operator shall dismantle and remove the communication tower within six (6) months of the expiration of such twelve (12) month period. Further, both the owner of the lot and the owner of the communication tower, if different from the owner of the lot, shall notify the Zoning Officer at least 30 days before operation or use of the communication tower ceases.

1020.4 Validity

If any section, subsection, paragraph, clause, phrase or provision of this Ordinance or the location of any such use shall be adjudged invalid or held unconstitutional, the same shall not affect the validity of the Ordinance as a whole or any part or provisions hereof other than the parts so adjudged

to be invalid or unconstitutional. The regulations and restrictions regarding this use shall apply to such use wherever such use may be located in the Township.

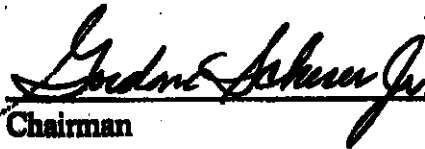
2. **Effective Date:** This Ordinance shall take effect upon its enactment.

3. In all other respects the Zoning Ordinance shall remain the same.

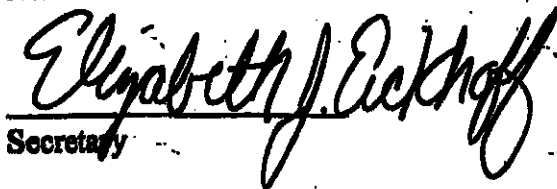
DULY ENACTED AND ORDAINED this 3rd day of December, 2001 by the

Supervisors of East Penn Township, Carbon County, Pennsylvania in lawful session duly assembled.

EAST PENN TOWNSHIP SUPERVISORS


Chairman

Attest:


Secretary

ORDINANCE NO. 2000-2

WHEREAS, The Board of Supervisors of East Penn Township have enacted an Ordinance known as the Zoning Ordinance of East Penn Township; and

WHEREAS, The Board of Supervisors of East Penn Township, in order to promote the general welfare of the Township deem it advisable to amend said Ordinance.

NOW THEREFORE, be it enacted and ordained by the Board of Supervisors of East Penn Township that the aforementioned Ordinance is amended as follows:

1. Section 503.06 shall be deleted from the Ordinance.
2. A Section 504 shall be added to the Ordinance which shall read as follows:
Conditional Uses. The following are permissible subject to approval of the Board of Supervisors:
 - .01 "Quarry or mining and reclamation. See Section 1019 for additional regulations."
3. Section 1019 of the Ordinance shall be deleted in its entirety..
4. Section 1019 will be replaced with the following section:

1019 QUARRYING, MINING AND RECLAMATION:

- A. The Zoning Officer shall, in accordance with the provisions of this Ordinance, issue a zoning permit for the following conditional use subject to the approval of the Board of Supervisors of the Township and subject to the requirements specified below and elsewhere in this ordinance.

- (1) Township Ordinances. The applicant shall provide detailed plans and reports which address all of the matters required by Township ordinances. Any approvals required by any Township ordinance, including but not limited to land development plan approval, except for building permits, shall be obtained prior to submitting an application for a conditional use and shall be required as a condition of approval. In addition, the applicant shall present

a duplicate set of the plans, specifications, applications and any other supporting data that has been or was presented to PaDEP for their review in issuing mining permits.

(2)

Other Government Approvals. Prior to submission of a conditional use application, the applicant shall obtain any permits required by any State, Federal, County or other governmental agency, and present proof of issuance of such permits to the Township. Such permits include, but are not limited to, a mining permit from PaDEP. Such uses shall comply with all applicable State and Federal laws including, but not limited to, the following:

(a) The Act of June 22, 1937, P.L. 1987, as amended, known and referred to as the "Clean Streams Law."

(b) The Act of January 8, 1960, P.L. 2119, as amended, known and referred as the "Air Pollution Control Act."

(c) The Act of November 26, 1978, P.L. 1375, as amended, known and referred to as the "Dam Safety and Encroachments Act."

(d) The Act of July 7, 1980, P.L. 380, known and referred to as the "Solid Waste Management Act."

(e) The Act of December 19, 1984, P.L. 1093, known and referred to as the "Noncoal Surface Mining Conservation and Reclamation Act."

(f) National Pollution Discharge Elimination System permits or requirements as outlined under 40 CFR-Protection of Environment.

(g) Mine Safety and Health Administration requirements as outlined under 30 CFR - Mineral Resources.

(3)

Reports. Necessary reports and studies which shall be submitted include:

(a) A wetlands delineation, function and value study.

(b) Hydrological and hydrogeologic study.

(c) Traffic impact study.

(d) Stormwater drainage plan.

- (e) Erosion and sedimentation control plans.
- (f) A reclamation plan.
- (g) An emergency operations plan.
- (h) A preblast/baseline study on properties located within a 1 mile radius from the proposed mining activity. Base line information on water quality, air quality and structural integrity of buildings shall be documented. (See 1019(6))

and any other plans or studies which are required in the discretion of the Township and by other Township ordinance. Such reports shall be prepared by competent, qualified and licensed and/or certified professionals and shall be subject to review, acceptance and approval by the Township.

- (4) **Minimum Lot Size.** The minimum, lot size for a surface mining operation shall be fifty (50) acres.
- (5) **Minimum Setback Requirements.** The following minimum setbacks shall be maintained between the regulated activity or use and all property lines and public rights-of-way:
 - (a) Excavations for surface mining operations shall be set back a minimum of two hundred (200) feet from all property lines and public road rights-of-way, and three hundred (300) feet from all zoning district boundaries, existing residences, wetlands and stream banks.
 - (b) All structures shall be set back a minimum distance equal to the height of such structures unless a greater distance is required by other municipal, State or Federal regulations.
 - (c) Surface mining operations, including stockpiles, shall not be conducted within two hundred (200) feet to any property line, existing public right-of-way, park, cemetery, wetland or bank of any stream.
 - (d) Structures used for the processing of quarried material and all parking, loading and unloading areas shall be set back a minimum of two hundred (200) feet from all property lines, road right-of-way lines, wetlands and stream banks.

(6)

Buffer Requirements.

- (a) Within the minimum setback areas, a perimeter landscape buffer shall be established and maintained for a minimum width of one hundred fifty (150) feet adjacent to any zoning district boundary, any property line, any existing residence and the existing legal right-of-way line of any public street. A berm shall be constructed (which may be partially within the required perimeter landscape buffer) completely around the surface mining operation except for necessary and approved access drive and stormwater crossings, and shall be located on the interior side of the landscape buffer. The outside toe of the berm shall be located at least fifty (50) feet from the property line or any street right-of-way. The berm shall have a minimum height of fifteen (15) feet and a maximum height of fifty (50) feet, measured from the original ground level prior to any site development, to the top of the berm. The maximum side slopes on the outside of the berm shall not exceed a two to one (2:1) ratio. The minimum top surface width shall be ten (10) feet. The storage of overburden on the interior side of such berm shall be permitted; provided however, that the height of the overburden shall not exceed the height of the berm. In addition, there shall be planted on the slope of said berm most distant from the proposed limit of mining, hybrid poplars (or their equivalent) on eight (8) feet spacings with an inner planting (also on the outermost slope of said berm) of evergreens also spaced at eight (8) feet intervals but with each evergreen planting being centered between each planting of hybrid poplar. Any dead trees shall be replaced within one (1) growing season for the first 10 years. The buffer planting shall be maintained for the life of the quarry operation. For purposes of this Section and any other ordinance of the Township, berms shall not be considered to be mining activity and may be located outside the "limits of mining" as established by the operator.
- (b) Access roads or drives shall be buffered from the point of their intersection with the upper third of the outside face of the required berm to a point outside the required sight triangle at the intersection with the public road providing site access.
- (c) The access roads or drives shall be lined on both sides with evergreen trees at least seven (7) feet in height at the time of planting. The trees shall be placed in two (2) staggered rows and spaced at eight (8) feet centers.
- (d) A fence at least ten (10) feet in height constructed of sound attenuating materials or design shall be installed and maintained on the access road or drive side (inside the required tree plantings) of the required buffer screening. The fence shall extend from a point at the centerline of the top of the required clear sight triangle. The fence shall be designed by a qualified professional with expertise in the acoustical

field. The fence shall be kept neat, clean, painted, repaired and well maintained until final restoration of the entire mining site is completed.

- (e) The buffer and screening requirements for access roads and drives shall also apply to roads which leave the quarrying tract and enter any other property, zone, tract, etc.

(7) **Fencing.** Chain link fencing and gates shall be erected around all surface mining excavation areas. Such fencing and gates shall have a minimum height of eight (8) feet and shall be located not less than fifty (50) feet from the property line or street right-of-way. Such fence shall be of such construction so as to prevent the unauthorized entry of any persons onto the tract. Such fence shall be screened from view by a vegetative screen which shall provide year round screening of the operation from view by any person on neighboring property or traveling on any public streets or roadways adjacent to the proposed operation. Signs shall be placed appropriately on the perimeter of the fence so as to provide a warning of mining activity. The Board of Supervisors may require that opaque-type fencing be installed where residential or other uses abut the mining property.

(8) **Monumenting.** The owner/operator shall construct monuments conforming to the requirements of the East Penn Township Subdivision and Land Development Ordinance along all buffer areas in such a manner as to be clearly visible upon inspection. Said monuments shall be permanently installed and surveyed by a registered surveyor. A legal description and plot plan shall be submitted to the Township, sealed by a registered surveyor.

(9) **Storage of Overburden.** Owner/operator shall store no overburden materials off-site within the Township. Upon movement of overburden, said overburden shall be immediately either removed entirely from the property, placed in berms as herein described, or placed adjacent to said berms on the interior side of the berm for storage. All such storage areas shall be promptly seeded in such a manner as to prevent erosion and in total compliance with the requirements of PaDEP as they may from time to time exist.

(10) **Maximum Height.** The maximum height for buildings, structures or equipment shall not exceed thirty-five (35) feet. Said height shall be measured from the original surface level, prior to any excavation, and shall not prevent taller structures, building or equipment from being located within mined or excavated areas, so long as the permitted height above the

original surface is not exceeded. Stockpiles shall not exceed fifty (50) feet in height above the original grade prior to any site grading, surfacing mining or development.

- (11) **Fumes and Gases.** No use shall emit fumes or gases in excess of levels permitted by the United States Environmental Protection Agency (US EPA), PaDEP or other appropriate regulatory agency.
- (12) **Dust and Other Emissions.** The emissions of dust, smoke, refuse matter, odor or similar substances or conditions which can cause any spoiling, staining, irritation or damage to persons or property at any point beyond the property line of the use creating the emission are hereby prohibited. A water wagon or other appropriate device shall be used to keep dust to a minimum during mining operations. Any area not accessible by a water wagon shall control dust by other means.
- (13) **Lighting.** No use shall utilize lighting in any manner which produces glare onto public streets or other tracts of land. Glare shall be defined as illumination from the proposed use in excess of one-half (0.5) footcandles on adjacent properties zoned for commercial use and streets, and two tenths (0.2) footcandles on properties zoned for residential or rural residential use, measured at least five (5) feet from the property producing the illumination.
- (14) **Erosion and Sedimentation Pollution Control Plan.** The applicant shall prepare an erosion and sediment pollution control plan, which has been approved by the Carbon County Conservation District, and any other agency with jurisdiction, and which is acceptable to the Board of Supervisors.
- (15) **Stormwater Drainage Plan.** The applicant shall present an approved stormwater drainage site plan consistent with the East Penn Township Stormwater Management and Earth Disturbance Ordinance for the surface mining operation as well as the proposed use following reclamation.
- (16) **Vibration.** No use shall produce physical vibrations in excess of the maximum safe levels established by the PaDEP or the US Bureau of Mines, including the criteria published in the November of 1980 USBM Report of Investigation RI-8507. The applicant shall supply information to the Township, including the type of equipment to be used, operating times and parameters, etc., to verify proposed compliance with this requirement.
- (17) **Noise.** No use shall cause the sound level beyond its property lines to exceed the following sound level limitations as measured in decibels on an A-weighted scale (dBA). Neighboring properties include all affected lands in the Township, other than surface mining properties, whether or not they abut the mining property.

- (a) **Absolute Sound Level Limitation.** The combined sound level from all sources associated with the use, including traffic to and from such use, shall not exceed sixty (60) dBA on any neighboring property during the hours of operation. At all other times, the use shall not cause the combined sound level to exceed fifty (50) dBA on the neighboring property.
- (b) **Relative Sound Level Limitation.** The combined sound level from all sources associated with the use shall not create an ambient sound level on any neighboring property that exceeds by ten (10) dBA the background sound level on the neighboring property, during the hours of operation. At all other times, the use shall not create an ambient sound level on any neighboring property that exceeds by five (5) dBA the background sound level of the neighboring property.
- (c) If the sound source in question is a pure tone, the limitations shall be reduced by five (5) dBA.
- (d) Nonrepetitive impulsive sound sources shall not exceed ninety (90) dBA or one hundred twenty (120) dBC on any neighboring property, using the fast meter response speed.
- (e) The following are exempt from the preceding sound level limitations: emergency signaling devices; the generation of sound in the performance of emergency work; and the generation of sound in situations within the jurisdiction of the Federal Occupational Safety and Health Administration or similar regulatory authority.

(18)

Access and Haul Roads.

- (a) The site shall be accessible from a major rural collector or arterial road which is either a Commonwealth of Pennsylvania roadway or which meets the applicable requirements of the Pennsylvania Department of Transportation (PennDOT) for major collector or arterial roads. Vehicular access shall be designed to minimize danger and congestion along existing roads and to avoid the creation of a nuisance to nearby properties. All aspects of the traffic study which indicates that the proposed operation will decrease the capacity of existing roadways, or could create hazards to public health or safety, shall be alleviated by installation of appropriate devices as set forth in the traffic study and as determined by the Township. Such devices include, but are not limited to, traffic signals, acceleration and deceleration lanes, additional turning lanes and such other off-site improvements necessary to maintain public health, safety, access and use at the current level of service.
- (b) All access drives shall be paved for a distance of at least three hundred (300) feet

from the street right-of-way and shall incorporate a gravel section of at least fifty (50) feet in length, prior to the preceding required paved section, to assist with the removal of mud and debris from the wheels of vehicles exiting the site. A wheel wash or other similar device shall be installed to remove all foreign matter from the trucks' wheels and frame. The quarry operator will be responsible to see that no truck leaves the quarry site loaded in such a manner that stones or other material can fall over its sideboards or tailgate.

- (c) Haul roads and access roads shall be designed, constructed and maintained to prevent, to the maximum extent possible, erosion and to prevent contributions of sediment to streams or runoff outside the affected area, air and water pollution and off-site damage. Upon completion of the associated surface mining activities, the area disturbed by the road shall be restored unless retention of the road and its maintenance constitutes a part of the post-mining land use. Stormwater detention facilities shall be provided for and maintained to control runoff for such roads for two (2), ten (10), twenty-five (25), fifty (50) and one hundred (100) year storms.
- (d) Roads shall be constructed on stable areas that avoid wet or unstable soils. Prior to the construction of a road, all topsoil shall be removed, stored on a stable site and protected against erosion and compaction until restoration of the whole road. Any disturbed area adjacent to the road shall be vegetated or otherwise stabilized to prevent erosion.
- (e) Upon completion of the mining activities, the area disturbed by the road shall be restored unless the Board of Supervisors and PaDEP concur that such road is an acceptable component of the post-mining land use.

(19)

Operational Plan. The applicant shall provide an operational plan which shall address all matters necessary to determine compliance with this Part. In addition, the operational plan shall set forth the procedures that will be utilized for operation, including times and days of operation of various components of the mining activities. Such plan shall:

- (a) Require that access to the site will be limited to such times when an attendant is on duty, and access drive shall be secured by fences, locks, gates and other means to deny access at unauthorized times.
- (b) Onsite stacking lanes shall be provided so that there will be no vehicles waiting on any public right-of-way to enter the site to be loaded or to be weighed, or for any other reason related to the operation of the mining activities.
- (c) The operator shall maintain and make available to the public at its offices all

permits and approved plans required by any governmental regulatory agency having jurisdiction over the permitting, operating, maintenance and/or reclamation of the proposed facility.

- (d) The operator shall provide the Township with copies of any notices of violation received from any State or Federal agency within five (5) days of the date of receipt of such notice by the operator of the facility.
- (e) No operation shall be permitted on Sunday or a legal holiday; and no operation shall be permitted between the hours of 6:00 p.m. and 6:00 a.m.

(20)

Traffic. Due to the nature and characteristics of traffic associated with surface mining, the following studies are required:

- (a) A traffic impact study shall be completed in accordance with the requirements of this ordinance.
- (b) A pavement structural analysis shall be completed which shall evaluate the following elements for the roads which are considered to be within the major routes of travel for vehicles utilizing the facility:
 - 1) The requirements of Pennsylvania Code Title 67, Chapter 201, Subchapter G, Weight, Size and Load Restrictions, and Alternate Routes.
 - 2) Recording of existing pavement conditions through the use of a video cassette recorder or similar device to assist in future evaluation of the impact of the facility on existing roads. A copy of the video tape shall be provided to the Township.
 - 3) The results of the evaluation shall be presented in a report with a list of recommendations, a preliminary cost estimate, a funding method and an implementation schedule, all for the purpose of preventing and/or reducing the extraordinary adverse impact of surface mining vehicular traffic on public roads.

(21)

Floodplains. Floodplains shall not be encroached upon or altered in any manner without the appropriate permits from the PaDEP and the US Army Corps of Engineers. As part of the conditional use application, the applicant shall clearly demonstrate to the Board of Supervisors that the use will not increase the aerial extent of the floodplain or will not exceed the limits imposed by the PaDEP/Army Corps of Engineers permit. Such study shall take into account the amount of groundwater entering the quarry, the ability of the

quarry to store stormwater and such groundwater, and the timing of discharges to avoid flooding. Stormwater shall be drained in a manner which does not result in pollutants being discharged from the site in levels which are in excess of the regulations of PaDEP or the US Environmental Protection Agency.

(22)

Wetlands. The applicant proposing a surface mining operation shall conduct a wetlands investigation which demonstrates compliance with the following:

- (a) The investigation shall include a detailed report and delineation consistent with the regulations and guidelines of the US Army Corps of Engineers, US EPA, US Fish and Wildlife Service and PaDEP. The delineation shall be staked in the field, surveyed and plotted onto the mining development plan. All wetlands on the tract proposed for such use shall be delineated and analyzed in the report.
- (b) The impact of the proposed use on wetlands existing on both the tract proposed for use and on all adjacent tracts of land shall also be evaluated. If the proposed use is determined to impact wetlands on adjacent tracts of land, such wetlands shall be evaluated and delineated in the same manner as previously identified.
- (c) A copy of the National Wetlands Inventory map prepared by the US Fish and Wildlife Service shall be provided of sufficient coverage to identify mapped wetlands on the proposed tract and all adjacent tracts of land.
- (d) In the evaluation of the impact of the proposed use on wetlands on, or adjacent to, the proposed tract, the following issues shall be addressed in narrative and map form:
 - 1) A delineation of the existing drainage basins which drain into the wetlands prior to the development of the proposed use. Such delineation shall include existing topography and a calculation of the area of the drainage basins.
 - 2) A delineation of the drainage basins which will ultimately drain into the wetlands following the full development of the proposed use. Such delineation shall include the proposed topography and a calculation of the area of the drainage basins.
 - 3) The function and layout of all proposed collection and diversion lines and basins as well as the point of discharge.

- 4) **The present value and function of the wetlands including, but not limited to, stormwater control, habitat and the proposed impact on such values and functions. The applicant shall not adversely impact the value, function or use of any wetland by the proposed development or use contemplated. Mitigation shall replace any lost wetland in kind, function and use.**
- (e) **If the evaluation demonstrates a net loss of drainage area draining into the wetlands as a result of the development of the proposed use, the extent of the impact on the wetlands shall be determined based on the following:**
- 1) **The volume of stormwater which will be diverted away from the wetlands as a result of the proposed use.**
 - 2) **The impact on the wetlands resulting from the reduction of nutrients carried by stormwater, given the decrease in stormwater volume.**
 - 3) **The impact of the proposed use on the hydrology of the wetlands. Such evaluation shall specifically address the impact on the wetlands resulting from the lowering of the water table caused by the proposed use.**
- (f) **The evaluation shall quantify the extent of the impact on wetlands and shall specifically address the degradation in the value of the wetlands.**
- (g) **Such use shall not cause the gradual or immediate degradation of wetlands unless such impact is permitted as part of a mitigation plan approved by the PaDEP, Army Corps of Engineers, the US Fish and Wildlife Service, US EPA and any other agencies with jurisdiction.**
- (h) **If mitigation of wetlands is required, the applicant proposing such use shall provide a note on the site development plan indicating that a mitigation plan is required and the degradation of the wetlands will not occur without the necessary approvals from the PaDEP, Army Corps of Engineers, the US Fish and Wildlife Service, US EPA and any other agencies with jurisdiction.**
- (i) **The surface mining operation shall not excavate below the highest elevation wetlands existing on the site at the time of the application, unless applicant demonstrates that such excavation will not adversely affect the wetlands as required by this Section.**

- 23) **Rare, Threatened and Endangered Species.** The applicant shall evaluate the impact of the proposed use on rare, threatened and endangered species identified by the Pennsylvania Natural Diversity Index (PNDI) and through onsite investigation. Correspondence from PaDEP indicating a review of the PNDI shall be provided by the applicant. The Township shall have the right to verify said evaluation.
- (24) **Historical and Archeological Resources.** The impact of the proposed use on historical and archeological resources shall be evaluated and a written response from the Pennsylvania Historic and Museum Commission shall be obtained and provided as part of the application.
- (25) **Hydrogeological Study.** The applicant shall provide the Board of Supervisors with an evaluation of the impact of the use on the groundwater and public and private groundwater supplies. This evaluation shall demonstrate compliance with the following:
- (a) The surface mine shall not cause the contamination, diminution or interruption of a public or private water supply.
 - (b) The operator/owner shall install groundwater monitoring wells at least every one thousand two hundred (1,200) feet (plus or minus ten (10) percent) along the perimeter of applicant's property or of a closer separation distance if determined necessary by the applicant's hydrogeologist.
 - (c) The applicant shall provide an analytical characterization of representative upgradient and downgradient groundwater samples prior to development which include the chemical parameters utilized within the PaDEP regulations, the Safe Drinking Water Act and as determined by the Township, whichever is more restrictive.
 - (d) The use shall not impact the storage or yield of wells in the vicinity to the extent that the user of the well is deprived of the daily water needs of the property as it exists prior to the development of the surface mining operation. For residential properties, daily water needs shall be equivalent to the PaDEP standard of seventy-five (75) gallons per day per person using a minimum of three and one-half (3.5) persons per dwelling. In evaluating the ability to maintain the daily water needs of a property, the applicant shall specifically address the groundwater recharge during drought conditions. Drought condition calculations shall account for a one (1) in ten (10) year recurrence potential, if such data is available, or a forty (40) percent below normal reduction of precipitation for recharge. Users of wells in the vicinity shall not be deprived of daily water needs during drought conditions.

(e) The applicant shall provide an evaluation of the following in narrative and map form on a plan of the same scale and standards as the requires site plan:

- 1) The real extent of the groundwater which may be affected by the use including existing dwellings and structures.
- 2) The static water levels prior to the development of the use and following the maximum development of use, considering the cone of depression and lowering of the static water level within the previously affected area.
- 3) The direction of groundwater flow and flow rate of the aquifer(s) within the potentially affected areas.
- 4) A determination of the extent to which any nearby wells may be affected by the use including the anticipated change in the static water levels of all such wells as well as potential contamination.

(f) The applicant shall identify and map all measures which shall be required to avoid the contamination, diminuation or interruption of public or private water supplies identified in the previous subsection. Such mapping shall include hypothetical cones of depression and the measures proposed to alleviate or eliminate disturbance or interference with ground water quantity or quality.

(g) The applicant shall notify all property owners with existing wells within the potentially affected area of the potential effects on the wells as well as measures which will be taken to avoid such effects.

(h) A commitment from the quarry operator/owner to sample monitoring wells at least once every three (3) months for parameters contained in the PaDEP regulations, the Safe Drinking Water Act or as determined by the Township. The Township shall be notified no less than forty-eight (48) hours prior to the testing date and time, in order to permit its designated official to witness the test. Test results shall be kept on file by the quarry operator, and copies shall be forwarded promptly to the Township.

(26)

Groundwater Protection. The operator/owner of any surface mine which affects by surface mining activities a public or private water supply by contamination, diminuation or interruption shall restore or replace the affected water supply with an alternate source of water, adequate in quantity and quality for the purpose served by the supply. For the

purpose of this Section, the term "water supply" shall include any existing source of water or facility or system for the supply of water from human consumption or for agricultural, industrial, recreational or other uses.

(27)

Reclamation.

- (a) When the surface mining operation has concluded, the area shall be reclaimed to approximate original contour or by terrace, if permitted by PaDEP. Terracing shall occur through the utilization of an overall two (2) to one (1) reclamation slope, with the intervening slopes between terraces being no greater than thirty-five (35) degrees unless otherwise approved by PaDEP, or the natural angle of slippage, whichever is greater, and with the height of the intervening slopes between terraces being no greater than twenty-five (25) feet and with the surface width of each terrace being no less than twenty-five (25) feet. Upon said terraces shall be placed a minimum twelve (12) inch layer of available soil and planted, concurrent with the reclamation, coniferous vegetation and hybrid poplar so as to create a continuous planting upon each terrace. Both the hybrid poplar and the evergreens utilized shall be of a type which shall achieve a minimum height of twenty-five (25) feet at maturity. Tree spacing and density shall be the same as berm planting. Should PaDEP not permit terracing, only approved PaDEP designs may be used for reclamation. Soil cover shall be sufficient to allow the growth and maturity of the species planted. A plan showing the reclamation, including proposed soil cover type and depth, and the planting schedule shall be submitted at the time of and as part of the conditional use application.
- (b) Where a water impoundment is part of the reclamation, the slope shall extend to fifty (50) feet below the post-reclamation water level at a maximum slope of thirty-five (35) degrees, unless otherwise approved by PaDEP, to serve as a safety bench for safe exit from the impoundment. Benches developed below the lower level of the reclamation safety bench need not be restored, removal of any benches below the safety bench shall be accomplished only with approval of PaDEP.
- (c) Reclamation of a working face shall begin within one hundred eighty (180) days after such face had reached its maximum horizontal extent.
- (d) **Revegetation.**
 - 1) Revegetation where required shall provide for diverse, effective and permanent vegetative cover of the same seasonal variety native to the area of land to be affected and capable of self-regeneration and plant succession at least equal in extent of cover to the natural vegetation of the area; except

that introduced species may be used in the Revegetation process where desirable and necessary to achieve the approved post-mining land use plan. Vegetation cover shall be considered of the same seasonal variety when it consists of a mixture of species of equal or superior utility for the approved post-mining land use, when compared with the utility of naturally occurring vegetation during each season of the year. The applicant shall inventory the existing vegetation and submit a plan showing the type and extent of the vegetation by species, size and number as part of the application. The inventory shall be made by a forester or other qualified individual.

- 2) Revegetation shall provide a quick germinating, fast growing vegetative cover capable of stabilizing the soil surface from erosion and may include, but not be limited to crown vetch.
 - 3) All Revegetation shall be carried out in a manner that encourages a prompt vegetative cover and recovery of productive levels compatible with the approved post-mining land use.
 - 4) Disturbed areas shall be seeded and planted during the first normal period for favorable planting after reclamation has commenced.
 - 5) When necessary to effectively control erosion, the disturbed area shall be seeded and planted as contemporaneously as practicable with a temporary cover of small grain, grasses or legumes or otherwise protected from erosion until a permanent cover is established.
- (e) Immediately after hauling roads are no longer needed for the associated surface mining activities or post-mining land use:
- 1) The road shall be physically closed to vehicular traffic.
 - 2) The road and adjacent slopes shall be regraded to blend with the natural contours and drainage patterns.
 - 3) All bridges and culverts shall be removed.
 - 4) Cross drains, dikes and water bars shall be constructed and maintained to minimize erosion.
 - 5) All disturbed areas shall be revegetated in accordance with this Part.

- (f) A reclamation plan shall be submitted which shall show all details of the reclamation plan, including final proposed elevations at contours not greater than two (2) foot intervals, final groundcover and any other information required by the Township to determine whether the reclamation plan will restore the site in a satisfactory manner.
- (g) The reclamation plan shall contain a schedule which identifies the specific phase of the mining operation and the geographic location of operations which will cause various portions of the reclamation plan to be initiated. Such schedule shall indicate the time needed to complete the various portions of the reclamation plan. Such schedule and plan shall be subject to approval by the Township, and may be amended only upon written request of applicant and favorable action by the Township.

(28) Preblast/Baseline Survey.

- (a) A preblast survey and report shall be conducted as part of the conditional use application which shall include the following:
 - 1) Independent firm or individual to perform preblast survey and preblast survey procedures to be utilized.
 - 2) Conditions of inventoried dwelling structures including, but not limited to, driveways, culverts, aboveground facilities, water wells and subsurface wastewater disposal. Condition description shall be limited to components readily available for visual inspection.
 - 3) Inventory water level and yield of all private and public wells within the preblast survey area where permitted by property owner and where access is readily available.
 - 4) If warranted, prepare specific recommendations for blasting procedures to prevent damage.
- (b) The following preblast procedures shall be implemented as part of the operation of the surface mining operation.
 - 1) At least sixty (60) days before initiation of blasting, the operator of any surface mine shall notify, in writing, all residents or owners of dwellings or other structures located within two thousand six hundred forty (2,640) feet of the blast site of their right to request a preblasting survey. On the written

request to PaDEP or the operator by a resident or owner of a dwelling or structure that is located within two thousand six hundred forty (2,640) feet of the proposed blast site, the operator of the surface mining activity shall promptly conduct a preblasting survey of the dwelling or structure. If a dwelling or structure is renovated or added to subsequent to a preblasting survey, then, upon written request by the resident or owner to the operator, a survey of such additions and renovations shall be performed by the operator in accordance with this Section. The operator shall provide the Township with a copy of such request.

- 2) A written report of the survey shall be prepared and signed by the person who conducted the survey. The report may include recommendations of any special conditions or proposed adjustments to the blasting procedure which should be incorporated into the blasting plan to prevent damage. Copies of the report shall be promptly provided to the person requesting the survey and to the Township.
- 3) Any preblasting survey requested more than ten (10) days before planned original initiation of blasting shall be completed by the operator before the initiation of blasting.
- 4) Photographic and video documentation of any preblast defects shall be kept in operator's file for one (1) year after the cessation of the blast and made available to the Township upon request.

- (c) The individual conducting preblast surveys and reports shall be a professional engineer licensed in the Commonwealth of Pennsylvania with verifiable experience in the fields of structural engineering and blasting.

(29)

Use and Storage of Explosives.

- (a) Public notice of blasting schedule to be completed prior to initiation of blasting by surface mine operators.
 - 1) Blasting Schedule Publication.
 - a) All blasting shall be conducted in strict conformity with the requirements of the Department of Environmental Protection as they may from time to time be altered and shall occur only between the hours of 10:00 a.m. to 4:00 p.m., prevailing local time, Monday through Friday, except in extraordinary circumstances such as intervening electrical storms resulting in delay to blasts

originally scheduled between the aforesaid hours; in the event of such extraordinary circumstances, the Township shall be promptly notified.

- b) Copies of the routine schedule shall be provided directly or by mail to the Township. Each resident within two thousand six hundred forty (2,640) feet of the blasting site who has prior thereto requested blasting notifications in writing, shall be notified by telephone of scheduled blast at least two (2) hours prior to such blast.
- c) The blasting schedule shall be republished every twelve (12) months.

2) Blasting Schedule Contents.

- a) The blasting schedule shall contain, at a minimum, the following:
 - i. Dates and time periods when explosives are to be detonated.
 - ii. The types of audible warning and all clear signals to be used before and after blasting.
 - iii. Methods to be used to control access to blasting area.
 - iv. A description of possible emergency situations that might prevent blasting at times announced in the blasting schedule, such as rain, lighting, other atmospheric conditions or operator or public safety which may require unscheduled detonation.
- b) Copies of records to be kept in accordance with PaDEP Chapter 211.4.6, "Storage, Handling and Use of Explosives," shall be provided promptly to the Township upon request. Specifically, the following information may be requested for each blast:
 - i. Location, date and time of blast.
 - ii. Name, signature and license number of blaster in charge.
 - iii. Type of material blasted.
 - iv. Number of holes, burden and spacing.
 - v. Diameter and depth of holes.

- vi. Types of explosives used.
- vii. Total amount of explosives used.
- viii. Maximum amount of explosives per delay period of eight (8) milliseconds or greater.
- ix. Method of firing and type of circuit.
- x. Direction and distance, in feet, to nearest occupied structure, neither owned or leased by the person conducting blasting, or the surface mining operator/owner.
- xi. Scaled distance.
- xii. Weather conditions.
- xiii. Direction of wind.
- xiv. Height or length of stemming.
- xv. Type of delay electric blasting caps used and delay periods used.

(30)

Accessory Uses. The following uses shall be permitted as conditional accessories to a lawful surface mining operation:

- (a) Retail and wholesale sales of sand and stone and minerals or materials excavated on site.
- (b) Manufacture of stone related products from material excavated on site, not including products made from or with asphalt, cement or concrete.
- (c) The storage and minor maintenance of vehicles and equipment necessary to the internal extraction operation.
- (d) Offices for the surface mining operation.

- (31) **Resumption of Mining.** In the event that the surface mining activities are found to be in violation of this ordinance or any other governmental agency regulations which require that the operation of the activity shall cease, such activity shall cause the conditional use approval to be void and forfeited. No resumption of surface mining shall take place in such event unless and until the applicant submits and obtains approval of a new application for a conditional use pursuant to the requirements of this Chapter and other Township regulations in effect at the time that such new application is submitted.
- (32) **Inspections.**
- (a) Township shall have the right to inspect the quarrying operations at any time during normal business hours upon notice to owner/operator.
 - (b) Operator shall pay an inspection fee to the Township in the amount set forth by resolution of the Township to defray Township administrative, engineering and/or legal costs of overseeing quarrying operations. Said fee shall be due at the time of the first removal of stone hereunder and annually on the first day of each calendar year thereafter.
- (33) **Certificate of Use and Occupancy.** A certificate of use and occupancy shall initially be temporarily issued and shall be conditioned upon the applicant operating in compliance with the foregoing standards. The site shall be inspected by the Township Engineer or another agent of the Township after such time as is set forth in the decision of the Board of Supervisors which authorized the conditional use to permit the use or not later than one (1) year after issuance of the temporary use and occupancy permit if no time is so fixed. The purpose of the inspection shall be to ensure compliance with these standards and other applicable standards. If the site is in compliance, a permanent use and occupancy permit shall be issued. If the site is not in compliance, the temporary use and occupancy permit shall be revoked and all operations shall cease until compliance is attained.
- (34) **Traffic Impact Study.** Where otherwise required by this Part a traffic impact study shall be performed in accordance with the following requirements:
- A. **Purpose.**
 - 1) To identify traffic and transportation problems associated with the adequacy of the existing transportation network and facilities with regard to safety, volume and capacity and the provision of access to and from and through the site in light of the character and volume of traffic expected to be generated by the proposed use or uses.

- 2) To delineate solutions to such problems or facilities, including the prescription of improvements to be provided by or at the expense of applicant.
- B. Preparation of Study.** The study shall be prepared by a professional engineer registered in the Commonwealth of Pennsylvania with sufficient prior traffic study experience to qualify him or her to perform the study and render any opinions and recommendations set forth therein.
- C. Study Area Characteristics.** The limits for the study area should be based on engineering judgment and a knowledge of the existing traffic conditions in the vicinity of the proposed site. The area must be of sufficient size to include the key roadway corridors and critical intersections which may be impacted by the proposed site traffic. Designations of the study area boundaries shall be a cooperative effort between the applicant, Township officials and PennDOT, when applicable. In those instances where agreement cannot be reached on the boundaries, the Township will establish the boundaries to be used for this study. Designation of the future design year(s) as the basis for the study will be made by the Township dependent on the timing and/or phasing of the proposed development.
- D. Contents.** The study shall be prepared in accordance with the Institute of Transportation Engineers' recommended practice entitled "Traffic, Access and Impact Studies for Site Development - Final Report," dated 1991, and as amended; and PennDOT Publication 201, "Engineering and Traffic Studies," current edition, and with the requirements contained herein.
- 1) **General Site Description.** The site description shall include the site, location, proposed land uses, current and proposed zoning, construction staging and completion date of the proposed land use and/or development. A brief description of other major existing and proposed land development within the study area shall be provided.
 - 2) **Transportation Facilities Description.**
 - (a) **Proposed Internal Transportation System.** This description shall show proposed vehicular and pedestrian circulation, all proposed ingress and egress locations, all existing or proposed internal roadways including the widths of all cartways and rights-of-way, parking conditions, traffic channelization and any other traffic control devices within or near the site proposed for use.

- (b) External Transportation System.** This report shall describe the entire external roadway system within the study area of the proposed use. Key intersections in the study area shall be identified and described. All future highway improvements, including proposed construction and traffic signalization, shall be noted. This information shall be obtained from PennDOT and the Township. Any proposed roadway improvements resulting from proposed surrounding developments shall also be recorded.
- (c) Existing Traffic Conditions.** Existing traffic conditions shall be determined for all roadways and intersections in the study area. Existing traffic volumes for average daily traffic by vehicle class, peak highway hour(s) traffic and peak development generated hour(s) traffic shall be collected. Mutual traffic counts at key intersections in the study area shall be conducted, encompassing the peak highway and development generated hour(s).
- (d) Background Traffic.** Background traffic growth and projected adjacent land development shall be included in the projection of future traffic volumes.
- (e) Transportation Impact.** Estimation of vehicular trips to result from the proposed development shall be completed for the average daily, peak highway hours(s) and peak development generated hour(s). Vehicular trip generation rates to be used for this calculation shall be based on the Institute of Transportation Engineers' publication entitled "Trip Generation," current edition and/or actual trip data collected at sites with similar trip generation characteristics. Also, provide an estimate of anticipated truck traffic by vehicle class. These development generated traffic volumes shall be provided for the inbound and outbound traffic movements, and the reference source(s) and methodology followed shall be documented. All turning movement shall be calculated. These generated volumes shall be distributed to the study area and assigned to the existing roadways and key intersections throughout the study area. Document all assumptions used in the distribution and assignment phase in a manner which permits the duplication of these calculations. Any characteristics of the site that will cause particular trip generation problems shall be noted.

(f) Traffic Analysis. The study area roadway network is to be analyzed for safety and capacity sufficiency for three (3) separate conditions: existing network conditions, future network conditions without the proposed development and the future network conditions with the proposed development. For each of the three (3) conditions, the following analyses shall be completed:

- 1) The effectiveness of the traffic control devices at all key intersections shall be evaluated by approach in terms of vehicle stops and/or delays.
- 2) Gap studies shall be conducted at the proposed site access points and key intersections to evaluate the need for signal control, turn prohibitions or additional site access points.
- 3) Queue length studies shall be completed to evaluate the potential for a backup of traffic from controlled intersections which could impact other intersections.
- 4) An analysis of the volume and capacity of the network and all key intersections shall be conducted using the methodologies presented in the Transportation Research Board's "Highway Capacity Manual," current edition. Levels of service will be determined for all roadways and key intersections.
- 5) Available and required sight distances shall be field measured and calculated at all key intersections.
- 6) Turn lane warrant and length analysis shall be conducted.
- 7) The analysis of existing roadway and intersection conditions in the study area will be based upon the current geometric conditions. The analysis of the future conditions without the proposed development must include a full consideration of all committed roadway improvements to the study area network when determining the expected levels of service.

(g) Conclusions and Recommended Improvements. Levels of service for all key intersections shall be presented in tabular and graphic form. This listing of recommended improvements shall include, but not be limited to, the following elements: internal circulation design, site

access location and design, external roadway and intersection design and improvements and traffic signal installation and operations. All physical roadway improvements shall be shown on the site plan. For each recommended improvement, provide a schematic drawing of existing and proposed conditions and a narrative description of the improvement, including the cost and funding method of the improvement and the implementation schedule for the improvement.

5. **Severability.** If any section, subsection, paragraph, sentence, clause or phrase of this Ordinance shall be declared invalid for any reason whatsoever, such decision shall not effect the remaining portions of this Ordinance, which shall remain in full force and effect, and for this purpose, the provisions of this Ordinance are hereby declared to be severable.
6. **Effective Date.** This Ordinance shall take effect upon its enactment as provided by law.
7. In all other respects, the Zoning Ordinance shall remain the same.

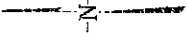
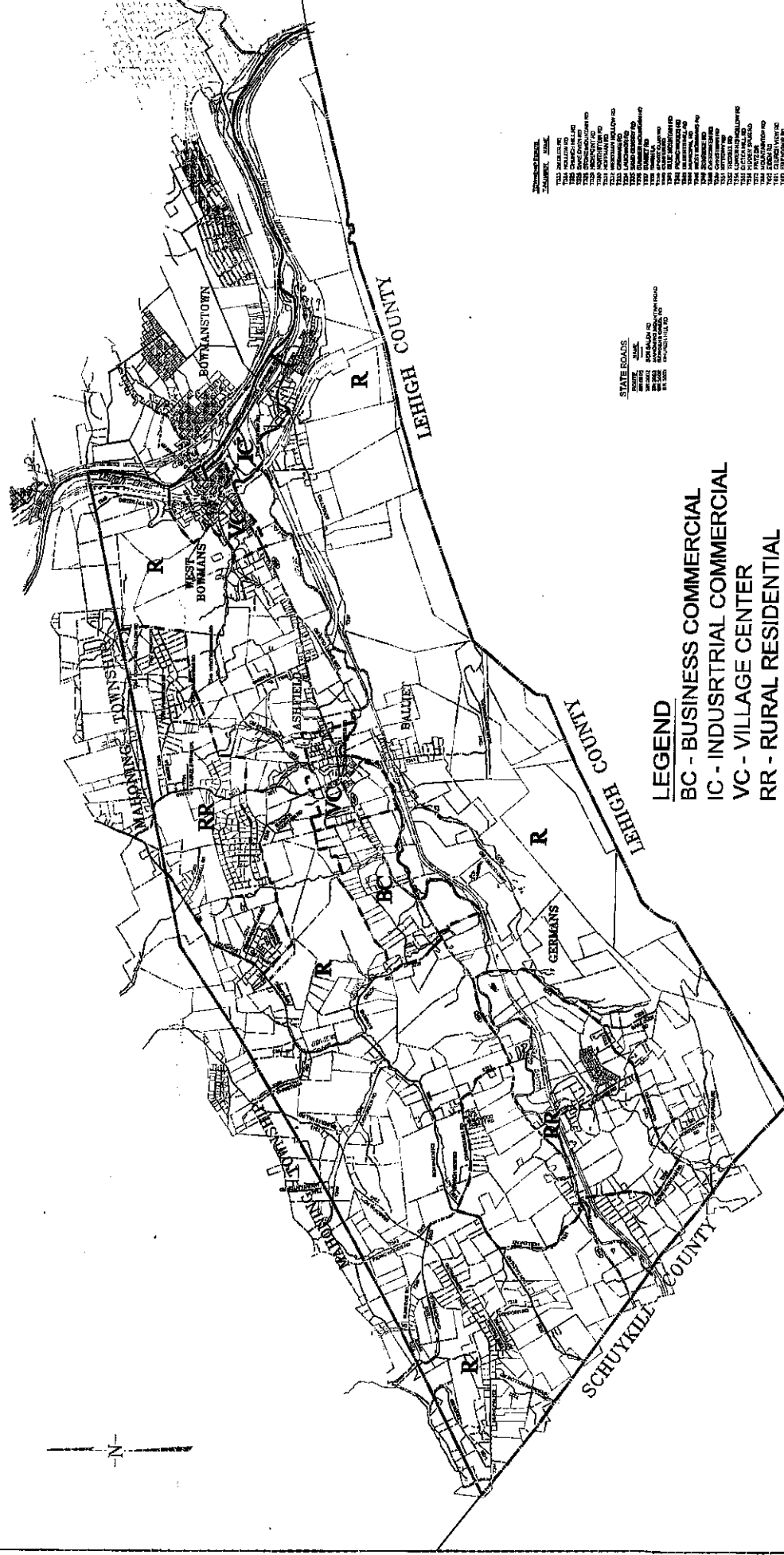
Duly ENACTED and ORDAINED on this 22nd Day of May 2000, by the Supervisors of the Township of East Penn, Carbon County, Pennsylvania in lawful session duly assembled.

EAST PENN TOWNSHIP SUPERVISORS:

Gordon E. Schuer Jr.
CHAIRMAN

ATTEST:

Elizabeth J. Eickhoff
SECRETARY



LEGEND
 BC - BUSINESS COMMERCIAL
 IC - INDUSTRIAL COMMERCIAL
 VC - VILLAGE CENTER
 RR - RURAL RESIDENTIAL
 R - RURAL

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 IN 1990

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**ZONING MAP
 EAST PENN TOWNSHIP
 CARBON COUNTY
 PENNSYLVANIA**

PREPARED BY
HANDWERKER
ENGINEERING
 CONSULTANTS