

Township of Kennedy Ordinance

No. 478

Zoning Ordinance of the Township of Kennedy

ADOPTED JULY 8, 2014

AMENDED OCTOBER 14, 2014

HIGHLIGHTED SECTIONS ARE AMENDMENTS MADE 10-14-14

**DISCARD PREVIOUS ORDINANCE THAT MAY HAVE BEEN
PROVIDED TO YOU**

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ZONING ORDINANCE OF THE TOWNSHIP OF KENNEDY

ORDINANCE No. 478

ADOPTED JULY 8, 2014

An Ordinance to address all aspects of zoning, development, and all related matters, including the need to regulate and restrict, as appropriate, development, building, and the like, including, as of necessity, to regulate and restrict the height, number of stories, bulk and size of buildings and other structures; the portion of lot that may be occupied; the size, depth and width of yards and other open spaces; the density of population and the location and use of buildings, structures and land for trade, industry, residence or other purposes; to divide the Township into districts and to provide boundaries thereof for the purpose of carrying out these regulations; to provide for the amendment of these regulations and the revision of the district boundaries; to create a Zoning Hearing Board and prescribe the powers and duties thereof; to provide for the enforcement of the aforesaid regulations and penalties for violation; and as a consequence of, and necessary to, repealing Ordinance 171, adopted by the Board of Commissioners of the Township of Kennedy, along with all amendments thereto, setting forth a full and complete zoning ordinance, in consideration of all issues existing under applicable law, at the time of adoption.

WHEREAS, the Board of Commissioners of the Township of Kennedy, acting pursuant to applicable law, and in consideration of their duties and obligations to the residents of the Township of Kennedy, deem it necessary, in order to protect and encourage the most appropriate use of land; to secure safety from fire and other dangers; to insure the provision of adequate light, air and amenity; to prevent undue concentration of population and crowding of land; to conserve the value of property; to facilitate the provision of public and private development in harmony with these purposes; and to promote the health, safety, general welfare, morality and convenience of the community.

NOW, THEREFORE, be it Ordained and Enacted by the Board of Commissioners of the Township of Kennedy, County of Allegheny, and the Commonwealth of Pennsylvania, and it is hereby Ordained and Enacted under the authority of applicable laws, that the within is adopted as Kennedy Township Ordinance No. 478, as the Zoning Ordinance of the Township, as set forth further herein.

Article I

SECTION 101: TITLES:

This Ordinance shall be known and may be cited as the “Zoning Ordinance of the Township of Kennedy.” The Map, showing the division of the Township into the designated zoning districts, shall be known as the “Zoning District Map”, which shall be the official zoning map of the Township of Kennedy. The said Map shall be an integral part of this Ordinance, and is incorporated herein by reference.

SECTION 102: VALIDITY:

Should any Court of competent jurisdiction declare any portion of this ordinance to be invalid, such declaration shall not affect the validity of the ordinance as a whole or of any part thereof, other than the specific portion declared to be invalid.

SECTION 103: PREDOMINATION OVER OTHER LAWS:

The provisions of this ordinance shall control wherever they impose greater restrictions (on the use of land, or on the use of height of structures, or on the size of yards or other open spaces, or on the density of population or on any other matters set forth herein) than those imposed by other laws, ordinances, rules, regulations or permits, or by easements, agreements or covenants.

SECTION 104: COMMUNITY DEVELOPMENT OBJECTIVES

104.1 Community Development Objectives on which this Ordinance is based are:

- A. To promote the interest of public health, safety, morals, and the general Welfare.
- B. To secure safety from fire or other conditions, and to provide adequate open space for light and air.
- C. To conserve and stabilize property values;
- D. To preserve woodlands, open space, recreational, agricultural, and environmentally sensitive lands from conflict with urban development;
- E. To facilitate the economic provision of adequate transportation, water, sewage, schools, parks, and other public requirements;
- F. To prevent the overcrowding of land, blight, danger and congestion in travel and transportation, loss of health, life or property from fire, flood, panic or other dangers;
- G. To promote storm water management, soil and water conservation;

- H. To set forth population density controls;
- I. To promote coordinated and practical community development; and
- J. To promote the utilization of renewable energy sources.

104.2 Interpretation

In interpreting and applying the provisions of this Ordinance, they shall be held to be the minimum requirements for the promotion of the health, safety, morals and general welfare for, of, and in the Township of Kennedy. It is not intended to interfere with or abrogate or annul other rules, regulations or ordinances of the Township of Kennedy, except that where this Ordinance imposes a greater restriction upon the use of buildings or premises or upon the height of a structure, or requires larger open spaces than are imposed by such other rules, regulations or ordinances, in which situation(s) the provisions of this ordinance shall control.

In the event of conflicts between the provisions of this ordinance and any other ordinance or regulation, the more restrictive provisions shall apply.

In interpreting the language of this ordinance to determine the extent of the restriction upon the use of property, the language shall be interpreted, where doubt exists, as to the intended meaning of the language written and enacted by the Board of Commissioners, in favor of the property owner and against any implied extension of the restriction.

SECTION 105: PREAMBLES NOT PART OF THE ORDINANCE:

The preambles used in this Ordinance are to be considered explanatory and directive only, to be used in interpreting the intent of those Articles, but not to be considered a part of this Ordinance in establishing applicable regulations or provisions.

SECTION 106: CONFLICT WITH OTHER ORDINANCES:

Ordinance No. 171, Ordinance 111, and all supplements and amendments thereto shall be, and the same are hereby, repealed. Any other Ordinance or part of any Ordinance, in conflict with the provisions of this Ordinance, is hereby repealed, insofar as it affects this Ordinance.

SECTION 107: EFFECTIVE DATE:

The effective date of this Ordinance shall be ten (10) days after passage and upon being signed by the Township Commissioners and being attested by the Secretary, or Manager, of the Township.

SECTION 108: ORDINANCE ON FILE FOR PUBLIC RECORDS:

This Ordinance, including the Zoning District Map, together with any succeeding amendments thereto, shall be on file and may be viewed by any interested person in the office of the Township Officials.

SECTION 109: AUTHORITY

This ordinance is adopted by virtue of the authority granted to the Township by the Commonwealth of Pennsylvania in the Pennsylvania Municipalities Planning Code, Act 247 of 1968, as amended by Act 170 of 1988 (53 P.S. 10101 et. seq.,) and applicable law.

SECTION 110: COMPLIANCE

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

SECTION 111: PROTECTION OF ASSETS

It is recognized that the Allegheny County Office of Economic Development, in conjunction with matters identified in "Allegheny Places", as well as addressed and concerned by other governmental agencies, have stressed the need to promote and protect areas that are significant assets. As a consequence of the same, the Township of Kennedy recognizes that uses should be developed and located so as to:

1. Promote and protect the county's historic and cultural resources.
2. Provide for the protection and extension of green space, greenways, the recognized Allegheny Land Trust "Green Print", regionally significant parks, and other appropriate areas that provide a similar benefit.
3. Preserve and protect existing and proposed trails, as identified in "Allegheny Places", or other trail developments.
4. Preserve and protect significant natural heritage inventory sites, such as those along waterways, and other sites of significance.

5. Protect ecologically sensitive areas, such as wooded steep slopes, stream headwaters, woodlands, wildlife corridors, and the like.
6. Protect and restore critical stream valleys, flood plains, wetlands, and other similar areas, so as to preserve their functions and functionality for flood water storage, water supply, ground water recharge, and similar ecological and scientific concerns.

ARTICLE II

RULES AND DEFINITIONS

SECTION 201: RULES:

The following rules of construction shall apply to this Ordinance:

- a. For the purpose of this Ordinance, certain terms and words are herein defined. Whenever used in this Ordinance, they shall have the meaning indicated in this Article, except where there is indicated in contrast a clearly different meaning.
- b. The particular shall control the general.
- c. In case of any difference in meaning or implication between the text of this Ordinance, and any caption or illustration, the text shall control.
- d. The word “shall” is mandatory and not discretionary. The word “may” is permissive.
- e. Words used in the present sense shall include the future; words used in the singular number shall include the plural, and the plural the singular, unless the context clearly indicates the contrary.
- f. The phrase “used for” includes “arranged for”, “designed for”, “intended for”, “maintained for”, and/or “occupied for”.
- g. In any and all zoning districts depicted by the map attached hereto, or described by any language contained herein, where streets, alleys or roads serve as the boundaries, the actual street, alley or road location shall serve as the zoning district boundary. Wherever the actual street, alley or road shall be inconsistent with any proposed or previously plotted street, alley or road, the actual location of such street, alley or road shall be utilized for the purpose of establishing the zoning district boundary.

SECTION 202: DEFINITIONS:

Abandonment: The plugging of the well and the restoration of any well site as required by this ordinance.

Access: A means of providing vehicular or pedestrian ingress and egress to and from a property.

Accessory Structure: A detached subordinate structure, the use of which is clearly incidental to the main structure or use of the land. An accessory structure includes, but is not limited to, the following:

- a. Children's playhouse, garden house, or private green house
- b. Civil defense shelter serving not more than two families
- c. Garage, shed or building for domestic storage
- d. Servants' quarters or servants' house
- e. Screened wall or fence

Accessory Use: A use customarily incidental and subordinate to the principal use and located on the same lot as the principal use, but not a dwelling unit or structure.

Accredited Standard Lot: A lot in an "R" District which fronts a One-Family dwelling, and by documentary evidence is shown to be, prior to and continuously since, the effective date of this Ordinance, in separate and distinct ownership from all abutting land.

Adult Arcade: Any place where the public is permitted or invited wherein coin-operated or electronically, electrically or mechanically controlled still or motion picture machines, projector or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time and where the images displayed are sexually explicit or depict nudity or sexual conduct, as defined herein.

Adult Bookstore or Video Store: An establishment having a substantial or significant portion of its stock-in-trade, including but not limited to videocassettes, movies, books, magazines and other periodicals, which is distinguished or characterized by its emphasis on matters depicting, describing or relating to nudity or sexual conduct, as defined herein, or an establishment or with a segment or section devoted to the sale or display of such material.

Adult Business: An adult arcade, adult bookstore or video store, adult motel, adult mini-motion-picture theater, adult motion-picture theater, adult news rack, adult nightclub, body-painting studio, bathhouse, escort service, massage parlor, or any other business establishment or private club offering adult entertainment, as defined herein.

Adult Entertainment: Movies, videos, still or motion pictures, photographs, slides, films or other visual representations, books, magazines or other printed material or live dramatic, musical or dance performances which are sexually explicit or depict nudity or sexual conduct, as defined herein.

Adult Mini-Motion-Picture Theater: An enclosed building with a capacity for accommodating fewer than 50 persons, used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to nudity or sexual conduct, as defined herein, for observation by patrons therein.

Adult Motel: A hotel or motel presenting adult motion pictures by means of closed-circuit television, the material being presented having as a dominant theme or presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to nudity or sexual conduct, as defined herein, for observation by patrons therein.

Adult Motion-Picture Theater: An enclosed building with a capacity for accommodating 50 or more persons used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to nudity or sexual conduct, as defined herein, for observation by patrons therein.

Adult News Rack: Any coin-operated machine or device which dispenses printed material substantially devoted to the depiction of nudity or sexual conduct, as defined herein.

Adult Nightclub: Any nightclub, as defined herein, which offers adult entertainment, as defined herein.

Allowable Drilling Area: The area within the well pad that is approved for wells to be drilled.

Alterations: As applied to a building or structure, a change or rearrangement in the structural parts or in the exit facilities, or an enlargement, whether by extending on a side or by increasing in height, or the moving from one location to another, or any change in use from that of one zoning district classification to another.

Alterations, Structural: Any change in the supporting members of a building such as bearing walls, columns, beams, girders, or foundations.

Ambient Noise Level: The all-encompassing noise level associated with a given environment, being a composite of sounds from all sources at the location, constituting the normal or existing level of environmental noise at a given location.

Apartment: A room or suite of rooms in a multiple-family structure which is used as a single housekeeping unit, and which contains complete kitchen, bath and toilet facilities, permanently installed.

Apartment House: A building used by three or more families living independently of each other and containing dwelling units.

Area, Building: The total of areas taken on a horizontal plane at the main grade level of the principal building exclusive of uncovered porches, terraces, steps, garages and other accessory buildings.

Automobile Repair, Major: Engine building or major reconditioning of worn or damaged motor vehicles or trailers; collision service, including body, frame or fender straightening or repair, overall painting of vehicles.

Automobile Wrecking: The dismantling or wrecking of used automobiles or trailers, or the storage, sale or dumping of dismantled, partially dismantled, obsolete or wrecked vehicles or their parts.

Basic Grade: The average elevation of the proposed grade line of the ground at the front of the structure as shown on the construction plans; in the case of a structure as shown on the construction plans; in the case of a structure abutting the front property line, the elevation of the curb in front of the center of the structure, or if there be no curb, the elevation of the proposed grade line at the center of the front lot line; in case no grade line is established, the actual existing grade of the traveled roadway shall apply.

Billboard: Structure, building wall, or other outdoor surface used to display lettered, pictorial, sculptured, or other matter which directs attention to any product, commodity or service offered only elsewhere than on the premises or as a minor and incidental service on the premises.

Buffer Area: A strip of land which is planted and maintained in shrubs, bushes, trees, grass, or other landscaping material and within which no structure is permitted except a wall or fence.

Building: A structure having a roof supported by columns or walls, for the shelter of persons, animals, chattels, or property. When separated by walls which are common with the walls of adjoining dwellings, each portion of such structure shall be considered a separate building.

Building Inspector: See Zoning Officer.

Building Line: The line of that face of the building nearest the front line of the lot. This face includes sun parlors and covered porches whether enclosed or unenclosed, but does not include walks, steps, or terraces.

Building Height: The vertical distance measured from the average elevation of the proposed finished grade at the front of the building to the highest point of the roof for flat roofs, to the deck line of mansard roofs, and to the mean height between eave and ridge for gable, hip, and gambrel roofs.

Clinic: An establishment which provides to ambulatory patients diagnostic health, medical, surgical and/or psychiatric services and/or treatment on an out-patient basis.

Community Club: An organization comprised mainly of residents of the neighborhood in which it is located, the primary purpose of which is the advancement of its members or of the community in educational, cultural, or civic pursuits and activities.

Community Service, Institution or Facility: A use of a structure or portion thereof, operated by neighborhood groups such as a chartered social, fraternal, business or professional organization, in which building lectures and amateur plays may be given, citizens-organizations may meet, and social and recreational activities may be conducted; where the premises and the major portion of the services are not restricted to members and their personal guests; and in connection therewith, there is neither the sale nor dispensation of intoxicating beverages on the premises.

Court: An open, unoccupied, and unobstructed space, other than a yard, on a zoning lot, bounded by two or more sides of a building; including similar area fully open to the sky but not necessarily beginning at the ground level.

County Planning Agency. The Allegheny County Department of Economic Development, or its successor entity to agency designated by the County of Allegheny.

Decibel (db): A unit for measuring the intensity of a sound/noise and is equal to 10 times the logarithm to the base 10 of the ration of the measured sound pressure squared to a reference pressure which is 20 micropascals.

Demobilization: Those activities when the drilling has ceased and the rig equipment and related pad site equipment is being dismantled for the purpose of moving off the drill pad site.

Derrick: Any portable framework, tower, mast and/or structure which is required or used in connection with drilling or re-working a well for the production of gas.

District, Zoning: A section of the Municipality for which uniform regulations governing the use, height, area and intensity of use of buildings and land and open spaces about buildings are herein established.

Drilling: Digging or boring a new well for the purpose of exploring for, developing or producing gas or other hydrocarbons, or for the purpose of injecting gas, water or any other fluid or substance into the earth.

Drilling Equipment: The derrick, together with all parts of and appurtenances to such structure, as well as every piece of apparatus, machinery or equipment used or erected or maintained for use in connection with drilling.

Drive-in Restaurant: An establishment where refreshments, meals or prepared foods may be obtained by the public; where customers thereof customarily arrive at the premises via motor vehicle; and where less than ninety percent of the persons consume the food or drink served to them within the main building on the premises. This definition shall include, *inter-alia*, such enterprises as drive-ins, ice-cream or custard stands, hot or cold drinks or sandwich establishments, and the like. It shall not include enterprises selling canned or bottled beverages, dairy stores, or grocery stores, where such beverages or food products are

sold in their original closed containers. Where more than twenty-five percent of the gross business of any establishment is covered under this definition, such establishment shall be considered a drive-in restaurant for purposes of this Ordinance.

Dwelling: A building designed or used exclusively as the living quarters of one or more families.

Dwelling, Single-Family: A separate, detached building designed for or occupied, exclusively as a residence by one family.

Dwelling, Two-Family: A separate, detached building designed for or occupied, exclusively as a residence by two families.

Dwelling, Multiple-Family: A dwelling, designed or occupied otherwise than as a one-family dwelling or a two-family dwelling. The term "multiple-dwelling" shall be understood to include apartment houses, row houses, and all other family dwellings of similar character, where apartments or suites are occupied and used as a separate complete housekeeping unit, but not to include hotels or motels.

Dwelling, Row: A multiple-family dwelling divided by party walls into distinct and non-communicating units, each dwelling unit of which has direct access to the outdoors through separate exterior entrance doors.

Educational Institution: A school including a public school, parochial school, private school, college, university and a private nursery school or pre-school, having regular sessions, with regularly employed instructors, which teaches those subjects that are fundamental and essential in elementary, secondary, or higher education under the supervision of the Commonwealth of Pennsylvania or a lawfully constituted ecclesiastical governing body, or a corporation meeting the requirements of the Commonwealth.

Electronic Notice: Notice given by a municipality through the internet of the time and place of a public hearing and the particular nature of the matter to be considered at the hearing.

Facility: The primary building(s), support structure(s) and associated appurtenances designed, constructed and maintained to operate a Natural Gas Well Pad, Compressor Station or Processing Plant

Facility Operator: Any person or entity partnership, company, corporation and its subcontractors and agents who has a desire to install and/or operate a Natural Gas Compressor Station.

Facility Work: The construction of, alteration, improvement, upgrade, or expansion to a Natural Gas Compressor Station or Processing Plant that results in an increase of the gross floor area of the primary building and the paved area of the pad area which, in combination, totals 2,000 s.f. or more. The term "Facility Work" shall include the initial construction of the facility, but shall not include typical maintenance to or operation of an existing facility. Any construction of, alteration, improvement, upgrade, or expansion to a facility that results in a less than s.f. figure presented shall not be considered Facility Work.

Family: One or more persons related by blood, marriage, or adoption, or three unrelated persons living as a household in a dwelling unit. May also include domestic servants and gratuitous guests.

Farm Animal: Farm animal shall include, but not necessarily be limited to, any animal commonly found on what would be considered to be a farm, such as horses, cows, cattle, bulls, pigs, chickens, and any similar, or related by species, animal.

Floor Area: The sum of the gross horizontal areas of the several floors of a building or buildings, measured from the exterior faces of exterior walls, or from the centerline of common walls separating buildings. For purposes of determining parking and loading space requirements for the several zoning districts herein,

the “floor area” of a building or buildings shall include: basement space, penthouses, attic space providing structural headroom of seven and one-half feet or more, interior balconies and mezzanines, enclosed porches, accessory uses other than accessory off-street parking and loading space requirements. The following areas shall not be included: cellar space, elevator shafts and stairwells, floor space for mechanical equipment as necessary to service the needs of the building, uncovered steps, terraces, breezeways, open spaces unroofed unless specifically required in the parking regulations herein, and fitting and dressing rooms.

Flowback: The process of flowing in, from, or to a completed/fractured well for the purpose of recovering water and residual sand from the gas stream prior to sending gas down a sales line, transmission line, or distribution line.

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

Fracture or Fracturing: The process of injecting water, sand, customized fracking fluid, steam, or gas into a gas well to allow or to improve gas recovery, from or of a rock formation.

Freshwater Fracture Pit: A pit used for the collection and storage of Water or other liquids for the purpose of fracture stimulation of Gas Wells.

Garage: A building or portion thereof, used for the storage and/or service of motor vehicles.

Gas: Any fluid, either combustible or noncombustible which is produced in a natural state from the earth and which maintains a gaseous or rarified state.

Gas Well: Any well drilled, to be drilled, or used for the intended or actual production of natural gas.

Group Residence Facility: An establishment that provides room and board to persons who are residents by virtue of receiving supervised specialized services limited to health, social and/or rehabilitative services provided by a governmental agency, their licensees, or certified agents or any other responsible non-profit social service corporation. These services shall be provided in a family environment and only to persons who are children under eighteen years of age; physically or mentally handicapped of any age; or elderly, sixty-two or more years of age, who are in need of supervision and specialized services. This category shall not include facilities for persons nineteen or more years of age who have been released from or who are under the jurisdiction of the Government Bureau of Corrections or similar institutions, or for persons less than age nineteen who are under the jurisdiction or who have been released from the jurisdiction of governmental institutions whose function involves the maintenance and supervision of juvenile offenders of the law. This category also does not include, and positively excludes, facilities which function as “half-way” homes or rehabilitative operations for alcohol and/or drug abuses or for convicted felons who have been released by penal institutions or are on probation. Supervision shall be provided by responsible adults whose number shall be determined and certified by the sponsoring agency. However, one responsible adult shall always be in actual residence on a twenty-four hour a day basis while any resident-clients are on the premises. The number of residents shall be limited in accordance with the provisions of the zoning district wherein the property is located. The number of residents shall not exceed eight persons, including supervisory adults and the children of supervisory

adults, occupying a dwelling unit in an R-4", Planned Unit Development District. The residents in a group residence facility in a C-1, Convenience Commercial must number at least eight persons and may not exceed sixteen persons including supervisory adults and the children of supervisory adults.

GVWR: (Gross Vehicle Weight Rating) The weight of a vehicle plus the weight of the maximum load as recommended by the manufacturer. The maximum allowable weight for a fully loaded truck, including passenger and cargo CLASS1 TRK – maximum 6,000 pounds.

Hearing: An administrative proceeding conducted by a Board.

Hobby: An activity or interest pursued solely for pleasure or relaxation and not as a main or secondary occupation, nor one which would provide pecuniary gain.

Home-Based Business, No-Impact: A business or commercial activity administered or conducted as an accessory use which is clearly secondary to the use of a dwelling for residential purposes and which involves no customer, client or patient traffic, whether vehicular or pedestrian, and no pickup, delivery or removal functions to or from the premises in excess of those normally associated with residential use.

Home Occupation: A commercial activity that is conducted by a person on the same lot where such person resides, and can be conducted without any significantly adverse impact on the surrounding neighborhood. An accessory use of a service character customarily conducted within a dwelling by the residents, which is clearly secondary to the use of the dwelling for living purposes and does not change the character thereof or have any exterior evidence of such secondary use other than a small nameplate, and in connection therewith there is not involved the keeping of or exhibition of stock in trade.

The office of a physician, surgeon, dentist, attorney or other professional person each with not more than one paid assistant shall be deemed to be a Home Occupation. The occupations of dressmaker, watchmaker, milliner, hairdressing, seamstress, or other persons who offer skilled services to clients, and are not professionally engaged in the purchase or sale of economic goods, and who have not more than one paid assistant, shall be deemed to be Home Occupations.

Dancing instruction, band instrument instruction in groups, barber shops, beauty shops, tea rooms, tourist homes, real estate offices, convalescent homes, mortuary establishments, and stores trades, or business of any kind not herein above listed shall not be deemed to be Home Occupations.

The listings set forth in this definition are not to be considered a full list of acceptable, or excluded occupations, nor should the definition set forth herein be deemed to overrule or obviate the notion of a "no impact home-based business", as the same is considered under applicable law, including the MPC or any amendment thereof. Should there be any question relative to whether a particular occupation fits within the considerations of this Ordinance, the matter may be submitted to the Planning Commission for determination.

Hospital: An establishment which provides diagnostic health services and extensive medical, surgical and/or psychiatric services and/or treatment either through in-patient care or an emergency out-patient basis.

Hotel: A building in which primarily temporary lodging is provided and offered to the public for compensation with and in which ingress and egress to and from rooms is made from an inside lobby or

office supervised by a person in charge at all hours, in contradistinction to a boarding house, lodging house, or rooming house and wherein incidental business may be conducted.

Hotel, Motor: A building in which lodging is provided and offered to the transient public for compensation and in which egress and ingress to and from rooms may be made either through an inside lobby or office supervised by a person in charge at all times or directly from the exterior and wherein incidental business may be conducted.

Job Training and Vocational Rehabilitation Services: An establishment providing rehabilitation training, rehabilitation services or job counseling and/or related services.

Junk: Junk shall include scrap iron, scrap tin, scrap brass, scrap copper, scrap lead or scrap zinc and all other scrap metals and their alloys, and bones, rage, used cloth, used rubber, used rope, used tinfoil, used bottles, old or used machinery, used tools, used appliances, used fixtures, used utensils, used lumber, used tires, used boxes or crates, used pipe or pipe fittings, and other manufactured goods that are so worn, deteriorated or obsolete as to make them unusable in their existing condition, but are subject to being dismantled.

Junk Yard: Junk yards shall consist of buildings, structures or premises where junk, waste, discarded or salvage materials are bought, sold, exchanged, stored, baled, packed, disassembled or handled, including automobile wrecking, and structural steel materials and equipment yards, but not including the purchase or storage of used furniture and household equipment or used cars in operable condition.

Lift Compressor: A device that raises the pressure of a compressible fluid (gas) in order to lift gas from the well.

Line Compressor: A device that raises the pressure of a compressible fluid (gas) in order for the gas to be transported through a pipeline.

Lodging House: A building containing lodging rooms which accommodate persons who are not family members. Lodging or meals or both are provided on a weekly or monthly basis. A lodging house shall not include dormitories, fraternity house, sorority houses or any residence that provides those services of a personal care and group residence facility.

Lodging Room: A room rented as a sleeping and living quarters without an individual bathroom.

Where a lodging room contains more than one (1) bed, each bed shall be counted as a separate lodging room for purposes of lot area and parking measurement in this Zoning ordinance.

Loading Space: A space within the main building or on the same lot therewith providing for the standing, loading or unloading of vehicles.

Lot: A parcel of land occupied or capable of being occupied by one or more structures.

Lot Area: The total area within the lot lines, excluding the area within any street right-of-way.

Lot, Depth of: The mean horizontal distance between the front line and the rear lot line, measured midway between the side lot lines.

Lot, Width of: The dimension of a lot, measured between the side lot lines of the building line.

MPC: Municipalities Planning Code, short reference for applicable Pennsylvania law.

Mailed Notice: Notice given by a municipality by first class mail through the internet of the time and place of a public hearing and the particular nature of the matter to be considered at the hearing.

Major Excavating, Grading or Filling: Any operation (other than in connection with a foundation for structure), involving:

- a. Strip or other mining of coal or other minerals, excavating of sand or rock and the crushing of rock, sanitary and other fills, drilling for gas or oil, recovery of metal or natural resources and similar operations; or
- b. Material alteration of the ground surface so as to affect streets and recreation sites and other public facilities, or physically affect private property within one thousand (1000) feet of the operation; or
- c. A volume of earth movement exceeding sixteen thousand (16,000) cubic yards; or
- d. A change in ground elevation exceeding twenty (20) feet.

Membership Club: A chartered, non-profit organization, the primary purpose of which is the advancement of its members of the community in educational, fraternal, cultural or civic pursuits and activities.

Mobile Home: A transportable, single family dwelling intended for permanent occupancy, contained in one unit, or in two units designed to be joined into one integral unit capable of again being separated for repeated towing, which arrives at a site complete and ready for occupancy except for minor and incidental unpacking and assembly operations, and constructed so that it may be used without a permanent 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, which is leased by the park owner to the occupants of the mobile home erected on the lot.

Mobile Home Park: A parcel of land having at least ten (10) contiguous acres in size under single ownership which has been planned and improved for the placement of mobile homes for non-transient use, consisting of two or more mobile home lots.

Mobilization: Those activities when the drilling rig and related equipment and personnel arrive at the well site and are conducting activities to rig up or position the rig equipment at the well and prepare for drilling. This includes all activities and services prior to the drill bit being lowered below the rotary table and entering the conductor pipe in an attempt to make hole ("spud in") for the first time at the pad site.

Motel: A building in which lodging is provided and offered to the transient public for compensation and in which egress and ingress to and from rooms may be made either through an inside lobby or office supervised by a person in charge at all times or directly from the exterior and wherein incidental business may be conducted.

Multiple Well Site Permit: The permit issued for the sole purpose of allowing future wells to be drilled on an existing pad site and within six hundred (600) feet of Protected Uses without obtaining waivers and/or variances.

Natural Gas Compressor Station: A facility designed and constructed to compress natural gas that originates from an Oil and Gas well or a collection of such wells operating as a midstream facility for continued delivery of Oil and Gas to a transmission pipeline, distribution pipeline, Natural Gas Processing Plant or underground storage field, including one or more natural gas compressors, associated buildings, pipes, valves, tanks and other equipment.

Natural Gas Processing Plant: A facility designed and constructed to remove materials such as ethane, propane, butane, and other constituents or similar substances from natural gas to allow such natural gas to be of such quality as is required or appropriate for transmission or distribution to commercial markets but not including facilities or equipment that are designed and constructed primarily to remove water, water vapor, oil or naturally occurring liquids from natural gas.

No-Impact Home-Based Business: As set forth pursuant to MPC. (See “Home-Based Business, No Impact,” Supra.) The business or commercial activity must satisfy the following requirements:

1. The business activity shall be compatible with the residential use of the property and surrounding residential uses.
2. The business shall employ no employees other than family members residing in the dwelling.
3. There shall be no display or sale of retail goods and no stockpiling or inventory of a substantial nature.
4. There shall be no outside appearance of a business use, including, but not limited to, parking, signs or lights.
5. The business activity may not use any equipment or process which creates noise, vibration, glare, fumes, odors or electrical or electronic interference, including interference with radio or television reception, which is detectable in the neighborhood.
6. The business activity may not generate any solid waste or sewage discharge, in volume or type, which is not normally associated with residential use in the neighborhood.
7. The business activity shall be conducted only within the dwelling and may not occupy more than 25% of the habitable floor area.
8. The business may not involve any illegal activity.

Nonconforming Lot: Any lot, the area or dimension of which was lawful prior to the adoption or amendment of this 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 Sign: Any sign which was lawfully erected and maintained prior to the adoption or amendment of this Ordinance, which fails to conform to all applicable regulations and restrictions of this article.

Nonconforming Structure: A structure or part of a structure which does not comply with the applicable area and bulk provisions of this Ordinance or amendment heretofore or hereafter enacted, where such structure lawfully existed prior to the enactment of this Ordinance or an amendment thereto, or prior to the application of this Ordinance or amendment to its location by reason of annexation. Nonconforming signs are included in this definition.

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

Nursing Home: An establishment engaged in providing in-patient nursing and health-related personal care, utilizing in whole or part licensed and/or registered nurses, excluding hospital services and excluding day-to-day personal care which is not health care by licensed or registered nurses.

Oil and Gas Development: The well site preparation, well site construction, drilling hydraulic fracturing, and/or site restoration associated with an oil and gas well of any depth; water and other fluid storage, impoundment and transportation used for such activities; and the installation and use of all associated equipment, including tanks, meters, and other equipment and structures whether permanent or temporary; and the site preparation, construction, installation, maintenance and repair of oil and gas pipelines and associated equipment and other equipment and activities associated with the exploration for, production and transportation of oil and gas, but excluding any structure, facility or use constituting a natural gas compressor station or a natural gas processing plant.

Operator or Well Operator. Any person or entity partnership, company, corporation and its subcontractors and agents who has an interest in real estate for the purpose of exploring or drilling for, producing, or transporting Oil or Gas. It is also the person or entity designated as the operator on the applicable permit application or well/facility registration.

Outer Boundary Surface Property Line: The outer boundary of any property for which a preliminary plat or concept plan has been filed with Kennedy Township.

Parking: Any lot, parcel, or yard used in whole or in part for the storage or parking of two or more vehicles where such usage is not incidental to or in conduction with a one-family or two-family dwelling.

Parking Space: An off-street space available for the parking of one motor vehicle and having an area of not less than one hundred eighty (180) square feet exclusive of passageways and driveways appurtenant thereto and giving access thereto and having direct access to a street or alley, but inclusive of a garage and driveway appurtenant to the garage.

Personal Care Home: A facility licensed as a personal care home by the Commonwealth of Pennsylvania and that provides room and board to persons who are residents by virtue of receiving supervised specialized service limited to health, social and/or rehabilitative services provided by governmental agencies, their licensed or certified agents or any responsible non-profit social service corporation. Supervision shall be provided by responsible adults whose number shall be determined and certified by the sponsoring agency. However, one responsible adult shall always be in actual residence on a twenty-four hour a day basis. The number of residents shall not exceed eight persons, including supervisory adults, occupying a dwelling unit in an "R-4" Planned Unit Development District. The residents in a Personal Care Home in a "C-1" Convenience Commercial District must number at least eight persons and may not exceed sixteen persons, including supervisory adults and the children of supervisory adults.

Pipeline: All parts of those physical facilities through which gas, liquids, hazardous liquids, fresh water, salt water, or chemicals move in transportation, including but limited to, pipe, valves and other appurtenance attached to pipe, whether or not laid in public or private easement or public or private right-of-way within

the Township, including but not limited to gathering lines, production lines and transmission lines. This definition does not include pipelines associated with franchise utilities.

Pipeline Construction: The initiation of any excavation or other disturbance of property for the purpose of installation, construction, maintenance, repair, replacement, modification or removal of a pipeline.

Pipeline Permit: A permit for the movement of gas, oil, water or other products.

Pipeline Operator: Any person owning, operating or responsible for operating a pipeline.

Planning Agency: The Planning Commission of the Township of Kennedy.

Principal Building or Structure: The building or structure in which the principal use is conducted.

Principal Use: The primary or predominant use to which the property is or may be devoted, and to which all other uses on the premises are accessory.

Professional Consultant: A person who gives professional advice or services to companies for a fee.

Protected Structure: Any full-time occupied residence, commercial business, school, religious institution or other public building that may be impacted by noise generated from activity associated with Oil and Gas Well Development and/or Natural Gas Compressor Station or Processing Plant. This term shall not include any structure (i) owned by a grantor or lessor who has signed an agreement granting surface rights to drill a well and/or erect and maintain a Natural Gas Compressor Station or Processing Plant, or (ii) whose owner (or occupants) has (have) signed a waiver relieving the Operator(s) from implementation of the measures established in this Ordinance for the owner's (occupants') benefit.

Public Hearing: A proceeding wherein the chair will ensure that the parties have an opportunity to be heard and that the members of the board have an opportunity to question the parties so that they have all of the information they need to make a decision in the matter.

Public Meeting: A forum held pursuant to notice under applicable law, such as 65 Pa. C.S. CH. 7 (relating to open meetings).

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

Recreational Vehicle: A van or utility vehicle used for recreational purposes, such as for camping, and often equipped with living facilities. As relates to any references for parking under this ordinance, a recreational vehicle also includes a boat, snowmobile, or similar instrument.

Rooming House: A building or portion thereof, other than an apartment hotel or a hotel, containing not more than one (1) dwelling unit, where lodging is provided without meals for three (3) or more persons in addition to the family unit.

Schools: A public, sectarian or private not-for-profit establishment approved by the state to provide formal academic education at the kindergarten, elementary, secondary, junior college or university level.

Self-Service Laundry: A business that provides home-type washing, drying or ironing machines, or dry-cleaning machines for hire to be used by customers on the premises.

Service Station: A building(s), premises or portions thereof which are used, arranged, designed or intended to be used for the retail sale of gasoline or other fuel for motor vehicles, boats or aircraft, as well as for minor automobile repair, including State inspection.

Social Service Agency: An establishment providing one or more social services for an individual or family limited to counseling, referral, temporary or disaster relief, welfare service or similar human support services.

Story: That portion of a building included between the surface of any floor and the surface of the floor next above it, or if there is no floor above it, then the space between the floor and the ceiling next above it.

Street: A public or private way other than an alley which affords the principal means of access to abutting properties. If there is not established grade, the Township Engineer shall establish same.

Structure: Anything constructed or erected, the use of which requires a fixed location on the ground or an attachment to something having a fixed location on the ground or in water, including, in addition to buildings, billboards, carports, porches, mobile homes which have been detached from their source of motivation, and other building features, but not including sidewalks, drives, fences and patios.

Temporary/Portable Storage Unit: Any stand-alone container, storage unit, shed or other portable structure than can be or is used for the storage and/or disposal of personal property of any kind and which is located for such purposes accessory to a permitted principal use on a non-permanent basis for a set period of time until the portable storage unit is moved to an off-site location.

Temporary Structure: Any structure which is easily movable and placed in a location for a short duration, not to exceed ninety (90) days.

Townhouse: A single-family dwelling constructed as part of a series of dwellings, all of which are either attached to the adjacent dwelling or dwellings by party walls or are located immediately adjacent thereto with no visible separation between walls or roofs.

Trade, Vocational, Business and Commercial Schools: An establishment providing non-academic training educational courses and/or programs.

Operator or Well Operator: Any person or entity partnership, company, corporation and its subcontractors and agents who has an interest in real estate for the purpose of exploring or drilling for, producing, or transporting Oil or Gas. It is also the person or entity designated as the operator on the applicable permit application or well/facility registration.

Well: A bore hole drilled or being drilled for the purpose of or to be used for producing extracting or injecting any gas, petroleum or other liquid related to oil or gas production or storage, including brine disposal, but excluding bore holes drilled to produce potable water to be used as such.

Well Site: A graded pad designed and constructed for the drilling of one or more Oil and Gas wells.

Yard: An open space adjacent to a lot line, open and unobstructed from the ground to the sky, except as otherwise provided herein.

- a. Front: A yard extending across a full width of the lot and extending back in depth the required minimum distance from the front lot line to a line parallel thereto on the lot.
- b. Rear: A yard extending across the full width of the lot and extending forward in depth the required minimum distance from the rear line to a line parallel thereto on the lot.

- c. Side: A yard between the building and the adjacent side line of the lot extending from the front yard to the rear yard.

Zoning Amendment: A change to the text of this ordinance or to the Zoning District Map proposed for adoption by the Board of Commissioners pursuant to the procedures specified in this ordinance.

Zoning Certificate: A document issued by the Zoning Officer indicating that approval of a conditional use has been granted by the Board of Commissioners or approval of a use by special exception has been granted by the Zoning Hearing Board or approval has been granted by the Zoning Officer for a permitted use by right, pursuant to the procedures of this ordinance indicating compliance with all applicable requirements of this ordinance, which approval is prerequisite to the issuance of a building permit and/or zoning certificate of occupancy.

Zoning District: An area accurately defined as to boundaries and location on the Zoning District Map and within which area only certain types of land uses are permitted and within which other types of land uses are excluded, as set forth in this ordinance.

Zoning District Map: The official map delineating the zoning districts of Kennedy Township, Allegheny County, Pennsylvania, together with all amendments subsequently adopted which is incorporated in and made a part of this ordinance by reference thereto.

Zoning Hearing Board: The Zoning Hearing Board of the Township of Kennedy, Allegheny County, Pennsylvania.

Zoning Officer: That person or persons, agency or corporation appointed by the Kennedy Township Board of Commissioners and charged with the responsibility of administering and enforcing this ordinance. This person may also be known or referred to as Building Inspector, as may be referred herein, or in other municipal ordinances or resolutions, or in common usage.

ARTICLE III CLASSIFICATION OF DISTRICTS

SECTION 301: CLASSES OF DISTRICTS:

The Township of Kennedy is hereby divided into three (3) types of districts and ten (10) zoning district classifications, for the purpose of applying the provisions of this Ordinance. These districts are:

TYPE	FULL NAME	SHORT NAME	
R	"R-1"-One-Family Residence District	"R-1" District	400
	"R-2"-Two-Family Residence District	"R-2" District	420
	"R-3"-Multiple-Family Residence	"R-3" District	440

	"R-4"-Planned Unit Development (PUD)	"R-4" District	450
	"R-5"-Multiple Family Residential District and Mobile Home Park	"R-5" District	470
C	"C-1"-Convenience Commercial District	"C-1" District	500
	"C-2"-Planned Shopping Commercial District	"C-2" District	510
	"C-3"-Highway Commercial District	"C-3" District	520
M	"M-1"-Limited Industrial District	"M-1" District	600
	"M-2"-General Industrial District	"M-2" District	610

The term "R" District or "C" District or "M" District (whenever used herein) are deemed to mean a type of district including every district classification having the same initial letter in the first part of the name regardless of the numeral that follows. For example, the term "C" District shall include the "C-1", "C-2" and "C-3" Districts.

Among the three (3) types of districts - "R", "C", and "M" - each type is recognized herein as "most protected" within itself and is subject to lessening of such protection if uses of either of the other two (2) types are introduced therein.

SECTION 302: ZONING DISTRICT MAP:

The boundaries of the districts listed above are designated on the Zoning District Map, which together with all the information recorded thereon, is hereby made a part of this Ordinance, and any changes in the district designation are hereinafter more specifically set forth on Exhibit "A".

SECTION 303: BOUNDARIES OF DISTRICTS:

Where uncertainty exists with respect to the boundaries or the various districts, as shown on the Zoning District Map, the following rules shall apply:

- 303.1** Where the indicated boundaries on the Zoning District Map are approximately lot lines or property lines, said lines shall be construed to be the boundaries of such districts, unless otherwise indicated.
- 303.2** Where the indicated boundaries on the Zoning District Map are approximately public Right-of-Way, the center lines of said public Right-of-Way shall be construed to be the boundaries.
- 303.3** Where the indicated boundaries are dimensioned on the Zoning District Map, said dimensions shall determine the boundaries.

- 303.4** Where the indicated boundaries are not approximately lot or property lines or public Right-of-Way, and where said boundaries are not dimensioned, the boundaries shall be determined by scaling on the Zoning District Map.

ARTICLE IV PROVISIONS GOVERNING RESIDENTIAL DISTRICTS

SECTION 400

“R-1” ONE-FAMILY RESIDENCE DISTRICT

SECTION 400: “R-1” ONE-FAMILY RESIDENCE DISTRICT:

The R-1 One -Family Residence District is composed of certain quiet, low-density residential areas of the Township, plus certain open areas where similar residential development appears likely to occur. The regulations for this district are designed to stabilize and protect the essential characteristics of the District; to protect the amenities of certain areas of the Township where the pattern has already been established with single-family development on relatively large lots; to promote and encourage a suitable environment for family life where children are members of most families and to prohibit all activities of commercial nature except home offices of doctors or ministers and certain home occupations, controlled by specific limitations governing the size and extent of such non-residential activities. To these ends, development is limited to a relatively low concentration with relatively large lot size, and permitted uses are limited basically to single-family dwellings, providing homes for the residents, plus certain public facilities which serve the residents of the district.

SECTION 401: AUTHORIZED USES:

The following uses are authorized in the R-1 District:

401.1 Permitted uses by right

- a. One-Family dwelling
- b. General gardening, and growing of trees and nursery stock; not including roadside displays or commercial signs. Sales are not permitted, except as may be provided for elsewhere.
- c. Publicly-owned recreation area

401.2 Conditional uses permitted by the Township Commissioners (see Article XVI)

- a. Philanthropic or religious institution
- b. Government use or structure, including schools
- c. Community Club

401.3 Special exceptions permitted by the Zoning Hearing Board (see Article XVI)

- a. Extension of a non-conforming use within a non-conforming structure or the change of such use within a non-conforming structure to a conforming use, or to another non-conforming use that is determined to be no more detrimental to the neighborhood
- b. Home occupation carried on within a dwelling unit by a resident thereof
- c. Limited enlargement of non-conforming structure
- d. Temporary structure or use in connection with an authorized use

SECTION 404: ACCESSORY USE AND STRUCTURES:

The following are permitted in an R 1 district.

404.1 Accessory structures, as defined in this Ordinance.

404.2 Accessory parking, provided a garage or parking area is used exclusively for the parking of non-commercial vehicles, with the exception of not more than one cargo van, which may bear commercial identification, and which shall not include any form of "box truck" or "box van". Any such vehicle must be strictly job-related and used exclusively by a person residing at the address where such vehicle is parked. The vehicle must be parked off of the street and in the driveway of the property. Alternatively, and in lieu of but not in addition to any such cargo van, such resident may have a pick-up truck bearing commercial identification, or a dump truck not to exceed a one ton capacity.

404.3 Exceptions as may be related to any approved home occupation may be considered, upon petition to or of the Board of Commissioners. In conjunction with any such petition, it is a recognized interest and concern, and applicable standard, that any exception will be considered solely if the area in question is of sufficient acreage, so as not to allow any form of immediate distraction or nuisance to any adjacent properties.

404.4 No-impact home-based businesses shall be permitted in all residential zones of the municipality as a use permitted by right, except that such permission shall not supersede any deed restriction, covenant or agreement restricting the use of land, nor any master deed, bylaw or other document applicable to a common interest ownership community.

SECTION 405: SIGNS:

Signs, as prescribed further herein, may be permitted.

SECTION 406: PARKING:

Required automobile parking space, as prescribed further herein, shall be provided.

406.1 Commercial related motorized construction equipment such as front loaders, backhoes, rollers and similar equipment are not permitted to be parked in

Residential Zones, with exception of as it relates to authorized construction being conducted on the premises.

- 406.2** Motorized vehicle shall be parked in driveways or on streets in accordance with Township ordinances. Parking on lawns is prohibited.
- 406.3** Recreational vehicles and boats shall be parked off of the road and on driveways or other approved areas. On-site preventive maintenance shall be permitted on such vehicles and boats providing that such maintenance does not create unreasonable noise, dust, dirt or the accumulation of related parts or supplies on the property. Such vehicles and boats shall be kept in good repair at all times, shall be registered and inspected as required by State law, and shall not be used as “storage units” nor shall they be used as on-site living quarters at any time.

SECTION 407: HEIGHT:

The maximum height of structures, except as otherwise provided, in this district shall be:

- 407.1** Thirty-five (35) feet (not exceeding 2 1/2 stories) for a one-family dwelling.
- 407.2** Forty-five (45) feet (not exceeding three (3) stories) for other main structures.
- 407.3** Fifteen (15) feet (not exceeding one (1) story), for accessory structures.

SECTION 408: AREA

Each lot in this district shall comply with the following minimum requirements, except as otherwise provided:

Lot Area: The minimum lot area for every building hereafter erected or altered shall be as follows:

- 408.1** One-family detached dwelling, convent, monastery, rectory or parish house - where no approved central sewage system exists, a minimum of fifteen thousand (15,000) square feet and a width at the building line of seventy-five (75) feet.
- 408.2** One-family detached dwelling, convent, monastery, rectory, or parish house - when an approved central sewage system exists, a minimum of eight thousand (8,000) square feet and a width at the building line of sixty (60) feet and fifty-five (55) feet as measured along the street or highway upon which the lot fronts.
- 408.3** Church and similar places of worship, philanthropic institutions, government structures, community club - one and one-half (1 1/2) acres and a width at the building line of not less than two hundred (200) feet.
- 408.4** Public or Private school:
Elementary School: Ten (10) acres plus one (1) acre for every one hundred (100) students at design capacity.

Junior High School: Thirty (30) acres plus one (1) acre for every one hundred (100) students at design capacity.

High School: Fifty (50) acres plus one (1) acre for every one hundred (100) students at design capacity.

SECTION 409: YARD AREAS:

In "R-1" areas, no building or structure shall be erected or enlarged unless the following yards are provided and maintained in connection with such building, structure or enlargement:

- Front Yard: Not less than thirty (30) feet.
- Side Yard: On each side, not less than nine (9) feet. However, notwithstanding the above, a side yard for one side of any structure may be a minimum of nine (9) feet so long as the opposite side yard is nine (9) feet, for a total of combined side yard of eighteen (18) feet. The combined total of the side yard for interior lots shall not be less than eighteen (18) feet, and the combined total yards for corner lots shall not be less than thirty (30) feet. For a church or similar place of worship, not less than thirty (30) feet on each side of the principal building.
- Rear Yard: Not less than twenty-five (25) feet.

409.1 Any accessory structure erected or enlarged shall maintain the following yard areas:

- Front Yard: Not less than forty (40) feet with the exception of fences where the front yard area setbacks will be not less than two (2) feet. *Fences erected in yards which abut an intersection will be restricted by a clear sight triangle of at least seventy-five (75) feet from the center of the intersection so as not to obstruct the view of oncoming traffic.
- Side Yard: Not less than two (2) feet.
- Rear Yard: Except a garage for the storage of vehicles, not less than two (2) feet. The rear yard for the storage of vehicles shall be the same as for other structures included in the R-1 District.

SECTION 410: PERCENTAGE OF LOT COVERAGE:

All buildings, including accessory uses, shall cover not more than fifty percent (50%) of the area of the lot.

410.1 Dwelling Standards:

Every one -story dwelling hereafter erected or altered shall have a building area of not less than one thousand (1,000) square feet. Every dwelling of more than one-story hereafter

erected or altered shall have a total first-floor area of not less than six hundred (600) square feet.

410.2 Area Exceptions:

Lot area requirements shall not be held to prohibit the erection of a one-family dwelling on an accredited substandard lot, in which instance, the following shall be applicable:

- a. On a lot less than seventy (70) feet in depth, of a required front yard, the rear yard depth may be reduced, provided it is at least fifty-seven percent (57%) of said lot depth, exclusive of required front yard.
- b. On a corner lot less than sixty-five (65) feet in width, side yard widths may be reduced, provided the width of said yard abutting the street is at least forty-six percent (46%) of the lot width, and the width of side yard not abutting the street is at least fifteen percent (15%) of the lot width.
- c. On an interior lot less than forty-five (45) feet in width, side yard width may be reduced, provided each is at least twenty-two percent (22%) of the lot width.
(See General Area Provisions and Exceptions, Section 902).

410.3 Community Club

If a Community Club is erected in this district, the following must be complied with:

- a. The Club is a chartered, non-profit organization other than a social, fraternal, business or professional organization.
- b. There is neither the sale nor the dispensation of intoxicating beverages on the premises.
- c. All activities conducted on the premises are non-commercial and non-profit, and in each instance, the Board of Township Commissioners determines that those activities will not be detrimental to the neighborhood, taking into consideration the physical relationship of the proposed use to the surrounding structures, the probable hours of operation, social activities to be conducted, and the number of people to be assembled or to use the premises at any one time.

SECTION 415: NO IMPACT HOME BASED BUSINESS:

No-impact home-based businesses, as defined by the MPC and herein, shall be permitted by right in all residential zone districts. A no-impact home-based business shall comply with the following:

- a. The business activity shall be compatible with the residential use of the property and surrounding residential uses.
- b. The business shall employ no employees other than family members residing in the dwelling.
- c. There shall be no display or sale of retail goods and no stockpiling of inventory of a substantial nature.

- d. There shall be no outside appearance of a business use, including, but not limited to, parking, signs or lights.
- e. No on-site parking of commercially identified vehicles shall be permitted.
- f. The business activity shall not use any equipment or process which creates noise, vibration, glare, fumes, odors or electrical or electronic interference, including interference with radio or television reception, which is detectable in the neighborhood.
- g. The business activity shall not generate any solid waste or sewage discharge, in volume or type, which is not normally associated with residential use in the neighborhood.
- h. The business activity shall be conducted only within the dwelling and shall not occupy more than 25% of the habitable floor area of the dwelling.
- i. The business shall not involve any illegal activity.

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SECTION 420

“R-2” TWO-FAMILY RESIDENCE DISTRICT

SECTION 420: “R-2” TWO-FAMILY RESIDENCE DISTRICT:

The R-2 Two-Family Residence District is composed of certain quiet, low-density residential areas of the Township, plus certain open areas where similar residential development appears likely to occur. The regulations for this district are designed to stabilize and protect the essential characteristics of the district; to promote and encourage a suitable environment for family life, where children are members of most families, and to prohibit all activities of a commercial nature except home offices of doctors or ministers and certain home occupations controlled by specific limitations governing the size and extent of such non-residential activities. To these ends, development is limited to a relatively loose concentration, and permitted uses are limited basically to single and two-family dwellings, providing homes for the residents, plus certain additional uses such as schools, parks, churches and certain public facilities which serve the residents of the district.

SECTION 421: AUTHORIZED USES

In this district, the land and structures may be used and structures may be erected, altered, enlarged and maintained by right for the following permitted uses:

- 421.1** Any use permitted in the R-1 District, Section 401.
- 421.2** Two-Family Dwellings
- 421.3** Non-profit recreation area

SECTION 422: CONDITIONAL USES

The following conditional uses may be permitted by the Kennedy Township Board of Commissioners:

- 422.1** Public utility corporation buildings, structures, facilities and installations.
- 422.2** Home occupation carried on within a dwelling unit by a resident thereof, in conformance with the requirements of Section 904.

SECTION 423: SPECIAL EXCEPTIONS:

Special exceptions may be permitted by the Zoning Hearing Board, as follows:

- 423.1** Extension of a non-conforming use within a non-conforming structure or the change of such use within a non-conforming structure to a conforming use, or to another non-conforming use that is determined to be no more detrimental to the neighborhood.

423.2 Limited enlargement of a non-conforming structure.

423.3 Temporary structure of a non-conforming structure.

SECTION 424: ACCESSORY USE:

Accessory uses (see Definition) may be permitted, such as a garage or parking area, provided a minor garage or minor parking area is used exclusively for the parking of non-commercial automobiles.

Exceptions as may be related to any approved home occupation may be considered, upon petition of or to the Board of Commissioners. In conjunction with any such petition, it is a recognized interest and concern, and applicable standard, that any exception will be considered solely if the area in question is of sufficient acreage, so as not to allow any form of immediate distraction or nuisance to any adjacent properties.

SECTION 425: SIGNS:

Signs, as prescribed herein, may be erected.

SECTION 426: PARKING SPACE/PARKING RESTRICTIONS

Required automobile parking space, as prescribed herein, must be provided. ***As prescribed in Section 406.***

SECTION 427: HEIGHT:

Height restrictions and provisions are the same as in the "R-1" District.

SECTION 428: AREA:

Same as in the "R-1" District

SECTION 429: YARD AREA:

Same as in the "R-1" District, except for two-family dwellings, for which the side yards shall be twenty (20) feet on each side.

SECTION 430: PERCENTAGE OF LOT COVERAGE AND SPACE:

All buildings, including accessory uses, shall cover not more than fifty percent (50%) of the area of the lot.

430.1 Dwelling Standards:

Every one-story dwelling hereafter erected or altered shall have a building area of not less than nine hundred (900) square feet; two-family structures shall have a minimum of eighteen hundred (1,800) square feet. Every dwelling of more than one-story hereafter erected or altered shall have a total minimum first floor area of six hundred (600) square feet; two-family structures shall have a minimum first floor area of twelve hundred (1,200) square feet.

SECTION 440

“R-3” MULTIPLE-FAMILY RESIDENCE DISTRICT

SECTION 440: “R-3” MULTIPLE-FAMILY RESIDENCE DISTRICT:

The R-3 Multiple-Family Residence District is composed of certain medium-density residential areas of the Township representing a compatible co-mingling of a single-unit and multiple-unit dwellings, plus certain open areas where similar residential development appears likely to occur. The regulations for this district are designed to stabilize and protect the essential characteristics of the district, to promote and encourage a suitable environment for family life, and to prohibit all activities of a commercial nature except those having some aspects of residential use such as home offices of doctors or ministers, funeral homes, membership clubs, rooming houses and tourist homes controlled by specific limitations governing the size and extent of such semi-commercial activities. To these ends, development is limited to a medium concentration, and permitted uses are typically single and lose-rise apartments, providing homes for the residents in a variety of dwelling types, plus certain public facilities which serve the residents of the district. However, high-rise apartments and other multiple-family dwellings, with corresponding proportions of open space, also may be developed under prescribed standards of density and open space.

SECTION 441: USE:

In this district, the land and structure may be used, and structures may be erected, enlarged, altered, and maintained by right for the following uses:

441.1 Any use permitted in the R1 and R2 Districts.

441.2 Multiple-family dwelling

441.3 Membership Club

441.4 Funeral Home

441.5 Educational Institutions

SECTION 442: HEIGHT

The maximum height of structures, except as otherwise provided, in this District, shall be:

442.1 Thirty-five (35) feet (not exceeding two-and-one-half (2 1/2) stories) for a multiple-family dwelling.

442.2 For other structures, those requirements found in Section 407 shall apply.

SECTION 443: HEIGHT EXCEPTIONS

443.1 The height of a multiple family dwelling may be increased, provided:

- a. The building is set back from the permitted side and rear building lines, five (5) feet, plus three (3) feet for each story over thirty-five (35) feet, or five (5) feet plus one (1) foot for each three (3) feet or fraction thereof of building height over forty-five (45) feet, whichever results in the greater dimension.
- b. The building is set back from the permitted front building line, three (3) feet for each story over three (3) feet or one (1) foot for each three (3) feet or fraction thereof of building height over forty-five (45) feet, whichever results in the greater dimension.
- c. No portion of the building is closer than one hundred (100) feet to any property in any R1 and R2 District.

SECTION 444: AREA:

Each lot in this District shall comply with the following minimum requirements, except as otherwise provided:

Lot Area: The minimum lot area for every structure hereafter erected or altered shall be as follows:

444.1 One-Family detached dwelling, convent, membership club, home, monastery, rectory or parish house, as required or permitted in R-1 District.

444.2 Multiple-family dwelling - for each dwelling unit with (amended Ordinance No. 383)

Four (4) ore more bedrooms - 3,500 square feet

Three (3) bedrooms - 3,000 square feet

Two (2) bedrooms - 2,500 square feet

One (1) bedroom - 2,000 square feet

444.3 Church and similar place of worship, community club - as required in the R-1 District.

444.4 Public or private school - as required in the R-1 District

SECTION 445: YARD AREAS:

Front Yard: Not less than 40 feet

Side Yard: Not less than 20 feet, the combined total for interior lots shall not be less than 40 feet

Rear Yard: Not less than 30 feet

SECTION 446: PERCENTAGE OF LOT COVERAGE AND SPACE:

All buildings, including accessory uses, shall cover not more than forty-five percent (45%) of the area of the lot.

446.1 Each structure under one roof shall have the following minimum criteria:

- a. A minimum of twenty (20) feet width per dwelling unit, exclusive of common entrance halls, hallways, stairwells, and/or corridors
- b. No more than five (5) dwelling units adjacent to one another.

SECTION 447: OFF-STREET PARKING FACILITIES/PARKING RESTRICTIONS

Shall be provided as required or permitted under this Ordinance. ***As prescribed in Section 406.***

SECTION 448: COMMUNITY CLUB:

A community club or membership club, if constructed and maintained in this area, shall conform with the same requirements as those required in R-1, and in addition, a membership club shall provide neither residence, public restaurant, nor bar facilities, and its operation shall not be disturbing to adjacent residential communities.

SECTION 449: FUNERAL HOME:

A funeral home erected in this or any other permitted District shall have the following:

- a. A lot having a minimum area of ten thousand (10,000) square feet, plus three hundred (300) square feet for each repose room, provided:
the prescribed yard, lot width and height requirements for a one-family dwelling are met; the main building shall be located not nearer than one hundred (100) feet to property in an R-1 or R-2 District; there shall be no crematory, receiving vault, preparation room or display of merchandise or advertising visible from outside the main or accessory building; there shall be no loading or unloading of merchandise or bodies of deceased persons on public property; there shall be no parking or standing of motor vehicles on public property.

SECTION 450

“R-4” PLANNED UNIT DEVELOPMENT DISTRICT

SECTION 450: PLANNED UNIT DEVELOPMENT DISTRICT:

Provision is hereby made for Planned Unit Development Districts, as authorized under applicable law, including specifically the Municipalities Planning Code, to permit establishment of areas in which diverse uses may be brought together as a compatible and unified plan of development which shall be in the interest of the general welfare of the public. In Planned Unit Development Districts, land and structures may be used for any lawful purpose in accordance with the provisions set forth herein. It is specifically noted that the purpose for such development include: To encourage innovations in the type, design, and layout of residential buildings, to promote more efficient use of lots and space, and conservation of open space, to permit authorized mixed uses such as normally considered within planned residential developments, to provide greater flexibility in the application of site development and use regulations and to otherwise promote the goals of the comprehensive plan and the Kennedy Township community development objectives, as set forth in this ordinance.

450.1 GENERAL REGULATIONS

The Planning Commission shall administer the provisions and procedures for planned residential developments. The Commission shall consider whether proposed modifications in any of the requirements of this chapter for each zoning district, as may be contained in an application for development of a planned residential development, will make for a more efficient, attractive and harmonious development. If such modifications, in the judgment of the Planning Commission, constitute a more beneficial use of the site, than provided for under the requirements of the applicable zoning regulations in which the site of the planned development is located, then the Board may grant the modifications.

450.2 STANDARDS FOR CONSIDERATION

The purposes of Planned Unit Development Standards are to provide for the development of land to residential and commercial development zones in conformance with provisions and standards which insure compatibility among all the land uses, foster innovation in site planning and development, and encourage sound development in the interest of safety and general welfare of the public. The standards for Planned Unit Development Districts are to provide the Planning Commission and the Commissioners with a means to evaluate applications for these Districts consistent with the provisions and general intent and in conjunction with the Zoning Ordinance

and amendments thereto. The following standards are intended to strengthen public control over development, while providing the necessary latitude for the developer to make creative and efficient use of his property.

a. the Planned Unit Development area must be a minimum of ten (10) acres.

b. Any unit density for the planned development may not exceed that density permitted in the zoning district in which the planned development is proposed.

c. All common areas of the development are reserved as permanent open space, except where particular structures are required to fulfill the educational, cultural, recreational or civic pursuits of the residents of the planned development

d. Any authorized use is limited to those specified for the given zoning district in which such development is being proposed.

e. A buffer area of at least twenty five (25) feet in depth, as measured from the lot line or any public right of way, must be provided within all perimeter setbacks of the planned development which contains multi-family dwellings or authorized mixed uses, where the multifamily dwellings or authorized mixed uses adjoin a single-family zoning district.

f. Pedestrian walkways must be included in each planned development.

g. All provisions for all planned developments must be in accordance with the provisions of the Pennsylvania Municipalities Planning Code.

h. No modification may be granted for any construction, development, use or activity that would impact any floodplain areas, and any such development must take into consideration the applicable Township floodplain ordinance(s).

450.3 COMMUNICATIONS

All official written communications, from the Township to an applicant (developer), regarding tentative approval of a planned residential development, shall be certified by the Township Secretary, Manager, or Clerk, in accordance with applicable law, including specifically the Municipalities Planning Code.

SECTION 451: PROCEDURE FOR APPROVAL

451.1 PREAPPLICATION CONFERENCE

Before submission of an application for tentative approval, the developer of the planned development must meet with the Planning Commission, the Zoning Officer, and such other personnel as may be necessary to determine the feasibility, suitability, and timing of the application. This step is intended so that the developer may obtain information and guidance from the Township personnel before entering into any commitments or incurring substantial expenses with regard to the site and preliminary plan preparation.

451.2 APPLICATION FOR TENTATIVE APPROVAL. *Submission of application.*

Ten (10) copies of an application for tentative approval, including the preliminary development plan, shall be submitted to the Zoning Officer. The application must meet the requirements for the preliminary application for development. All information must be submitted in writing and must include:

- a. The nature of the applicant's interest in the site proposed to be developed.
- b. A written statement by the developer setting forth the reasons he believes a planned development would be in the best interests of Kennedy Township, specifically being consistent with the public interests and consistent with the comprehensive plan and development objectives of the Township.
- c. A map showing and identifying with appropriate identification (such as block and lot numbers and street addresses) all LOTS within two hundred (200) feet of the site for which the planned development is proposed.
- d. Complete lists of the block and lot numbers of all lots adjacent to and all lots otherwise within two hundred (200) feet of the site for which the planned development is proposed, including the names and addresses of the owners thereof from the most current records of the Allegheny County Tax Assessment Office.
- e. In the case of plans which call for development over a period of years, a schedule showing the proposed times within which any and all applications for final development of all sections of the planned development are intended to be filed. (It is noted that such schedule must be updated annually, on the anniversary of its approval, until the planned development is completed and accepted.)
- f. An environmental impact statement.
- g. If necessary, supplemental materials necessary to clarify required modifications to this Ordinance, otherwise applicable to the particular site.
- h. In addition, the developer shall provide a preliminary development plan, which must include a formal plan of the proposed development, showing the name of the planned development, any and all proposed covenants relating to use; the location, size, height and bulk of building and other structures; use of dwelling unit density; parking areas; location and size of common areas; and all anticipated uses being submitted for tentative approval in accordance with this Ordinance and applicable law, including specifically the Municipalities Planning Code. The preliminary development plan must also include the following information: the location and size of any common open space, and the form of the organization proposed to own and maintain the common areas; the location, layout, widths, and percent of grades of all proposed public or private improvements, and the proposed method of connecting the proposed public or private improvements to existing public improvements and facilities; a preliminary delineation of grading, showing existing and

proposed contours at intervals not to exceed two-foot contour lines, based on United States Geological Survey datum, and a grading plan.

451.3 ACTION BY THE PLANNING COMMISSION

The developer shall submit a specific development plan to the Planning Commission for review, together with the application for a change of district classification, if applicable. At the first regular meeting of the Planning Commission after the submission of the application for tentative approval, the Planning Commission shall hold an open meeting where the public will be heard on the application, and, within thirty (30) days of the meeting, the Planning Commission shall make a written recommendation to the Board of Commissioners on any application for tentative development. In the recommendation, the Planning Commission shall set forth, with specificity, the explicit reasons for its recommendation either that the proposal be approved or denied. The Planning Commission may recommend the establishment of the development, provided that they find the facts submitted with the development plan establish that: the uses proposed will not be detrimental to present and potential surrounding areas, but will have a beneficial effect which could not be achieved under any other district; any exception from the Zoning Ordinance requirements is warranted by the design and amenities incorporated in the development plan; the land surrounding the proposed development can be planned in coordination with the proposed development and that it be compatible in use; the proposed development is in conformance with the general intent of the Comprehensive Master Plan, and/or applicable ordinances, and/or the MPC; the existing and proposed streets are suitable and adequate to carry anticipated traffic within the proposed district and in the vicinity of the proposed district; the existing and proposed utility services are adequate for the proposed development; and each phase (if applicable) of the proposed development, as it is proposed to be completed, contains the required parking spaces, landscaping and utility areas necessary for creating and sustaining a desirable and stable environment.

451.4 PUBLIC HEARING

The Board of Commissioners shall hold a public hearing on the application for tentative approval within sixty (60) days of the filing of same pursuant to the provisions of applicable law, including specifically the Municipalities Planning Code. Public notice of this hearing shall be provided, and will state the general nature of the proposed planned development. The Board of Commissioners may, as provided by the MPC, continue the hearing from time to time and may refer the matter back to the Planning Commission, provided that the hearing(s) must be concluded within sixty (60) days of the date of the first public hearing. Any and all hearings shall be in accordance with the provisions and procedures dictated by applicable law, including specifically the MPC.

451.5 FINDINGS. The Board of Commissioners shall, within sixty (60) days following the conclusion of the public hearing(s), or within 180 days after the date of filing of the application,

whichever comes first, by official written communication to the Developer, either grant approval of the application as submitted or grant approval subject to specific conditions; or deny approval of the application. The written communications will include a statement of findings of fact and the reasons for the grant or denial of the application and will set forth in detail the manner in which the proposed planned development would or would not serve the public interest, in accordance with provisions of the MPC.

451.6 TENTATIVE APPROVAL

Where tentative approval has been granted, the written communications will also state a specified period of time by which the Developer must submit his Application for Final Approval, or in the case of a development proposed over a period of years, specified periods of time for the filing of such applications. If no such time is stated in the official written communication, then the time for filing of the application for final approval will be deemed to be one (1) year from the date of the official written communications.

451.7 APPLICATION FOR FINAL APPROVAL

The application for final approval shall meet the requirements for a final application for a land development, and must be submitted to the Zoning Officer by the filing deadline and within one (1) year after tentative approval, unless the Board of Commissioners grants an extension upon written request of the developer to a date not to exceed eighteen (18) months from date of tentative approval. The application shall include the items hereinafter set forth:

- a. Ten (10) copies of the application.
- b. Final drawing(s) for all structures and buildings, other than specific single family dwellings, such drawings to be prepared by a registered architect.
- c. Proposed signs, including any proposed illumination
- d. All exterior illumination.
- e. All outside storage areas.
- f. Final drawings prepared by a registered engineer for all public improvements.
- g. Final landscape drawings prepared by a registered engineer or surveyor.
- h. Final grading drawings prepared by a registered engineer or surveyor.
- i. Delineation and indication of all public improvements to be dedicated, including names of streets or the like.
- j. Proposed lot lines.
- k. Nonresidential uses, common areas and common elements, if applicable.
- l. Vehicular and pedestrian ways, including vehicular entrances and exits from the site, showing directional flows.
- m. Parking areas, showing all detail as to the same, and parking spaces.
- n. Any existing public improvements adjacent to the site.
- o. Any and all public and private rights of way and easements.
- p. Any and all other physical features that relate to development of the site.

- q. A detailed development schedule, showing the proposed date(s) for beginning and completing construction on all projects, as well as the order of construction for such projects.
 - r. The proposed schedule for the construction and improvement of the common areas.
 - s. A landscape plan.
 - t. A grading plan which shall show a plan to re-seed the graded area within two (2) weeks of the completion of grading where grading occurs between April 1 and October 31, or a plan to re-seed the graded area during the next month of April where grading occurs between November 1 and May 31. It is noted that were a hillside exceeding twenty-five percent (25%) in slope is to be graded, that no more than twenty percent (20%) by area of the natural vegetative cover may be removed and that all natural cover together with any additional cover or trees necessary for conservation and other environmental purposes may be planted after grading is complete.
 - u. Deed restriction proposals to preserve the character of the common area.
 - v. If the developer has elected the association or nonprofit corporation method of administering common areas, the proposed bylaws of the association or the certificate of incorporation and the incorporated bylaws of the nonprofit corporation.
 - w. If the developer has elected the condominium method of ownership of common areas, the proposed declaration of condominium bylaws and related documents.
- Instruments dedicating all public and private rights or way, easements, and other matters, shown on the plan, from all persons having any interest in the subject property.
- x. Preliminary engineering feasibility studies of any anticipated problems which might arise due to the proposed development, as may be required by the Planning Commission and/or Board of Commissioners.
 - y. Mine study and/or core boring study with the requirement that the developer must comply with the recommendations of the engineering study if required by the Planning Commission or Board of Commissioners.
 - z. A title insurance policy or an attorney's certificate of title showing the status of the title to the site encompassed by the final development plan and all liens, encumbrances and defects, if any.
 - aa. Tax receipts, that being paid receipts from the taxing bodies indicating taxes have been paid in full up to and including the current period.
 - bb. Evidence that a commitment from a responsible financial institution has been issued to the applicant for construction financing.

451.8 SECURITY

The developer shall guarantee the installation of the private and public improvements specified in the final development plan through one (1) of the following methods:

1. Filing of a performance bond, naming the Township as obligee, by the developer, in the amount of one hundred ten percent (110%) of the estimated construction cost of the improvements, as determined by the Township. Any bond required must be from a

company licensed as a surety in the Commonwealth of Pennsylvania listed by the United States Treasury Department. Upon acceptance of all public improvements by the Township, the performance and payment bond will be released.

- 2.. Depositing or placing in escrow a certified check, cash or other acceptable pledge in the amount of one hundred ten percent (110%) of the estimated construction costs, as determined by the Township.
3. Providing such other security as may be acceptable to the Township.

SECTION 452: FINAL APPROVAL:

452.1 The Planning Commission shall, at its next regular meeting after the filing of the application for final approval, examine the application and determine if the application meets the criteria and includes the items hereinafter set forth and if the application for final approval complies with the conditions of tentative approval.

The Commission shall forward its written report to the Board of Commissioners within twenty (20) days of the filing of the application for final approval, setting forth its findings and recommendations.

452.2 ACTION BY THE BOARD OF COMMISSIONERS

In the event the application for final approval complies with the conditions of the tentative approval, the Board of Commissioners shall grant final approval within forty-five (45) days of the filing of the application. In the event the application does not conform to the conditions of tentative approval, the Board of Commissioners shall refuse final approval and the applicant may take such action as is provided for under the MPC.

452.3 Recording of the final development must be in accordance with applicable law, including specifically the MPC.

453.3 No zoning approval will be issued until the final development plan has been approved and recorded. Upon proof of recording and certification of final approval by the Board of Commissioners, zoning approval may be issued by the Zoning Officer.

452.4 AMENDMENTS.

Procedure for approval of amendments to planned developments after final approval or recording. Any amendment to a planned development, which is submitted after final approval or recording, which does not violate any of the conditions or requirements of the tentative approval, or of the zoning classification, may be approved at an open meeting of the Board of Commissioners, after recommendation by the Planning Commission provided, if the amendment entails only a minor adjustment to the location of a structure or to an improvement of a minor lot

line change but does not entail any enlargement of a structure or any increase in the number of dwelling unit, then such amendment may be approved by the Zoning Officer. Amendments involving substantive changes or modifications to conditions must require a public hearing following public notice. Upon approval of the amendment, the recorded final plan must be amended and rerecorded to conform to the amendment.

SECTION 453: AREA, YARD, COVERAGE AND SUPPLEMENTARY REGULATIONS:

The following standards shall apply to all developments, under this section (450).

District Area Minimum:	1 acre
District Width Minimum:	150 feet
District Depth Minimum:	150 feet
Lot Area Minimum:	Single-family dwelling 7,000 square feet; Two-Family dwelling 8,000 square feet, Multi-family dwellings 4,000 square feet per dwelling unit.
Yards required:	<i>Permitted residential uses:</i> Front Yard, rear yards and side yards for residential uses shall be designed so that no building is closer than 20 feet to any other building, and no building is closer than 25 feet to any boundary line of the district or public street.
Other permitted uses:	Front, side, rear yards to be at least 40 feet.
Coverage Maximum:	The structure cannot cover more than 40% of the district area minimum.

SECTION 455: ENFORCEMENT UNDER THIS SUB CHAPTER:

455.1 Jurisdiction.—As provided under the Municipalities Planning Code, District Justices shall have initial jurisdiction over proceedings brought to enforce the provisions relating to planned developments

455. 2 Enforcement Remedies.-

a. Any person, partnership or corporation, who or which has violated the planned residential development provisions of any ordinance enacted under this act or prior enabling laws shall, upon being found liable therefore in a civil enforcement proceeding commenced by a municipality, pay a judgment of not more than \$500 plus all court costs, including reasonable attorney fees incurred by a municipality 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 municipality may enforce the judgment pursuant to the appropriate Rules of Civil Procedure and applicable law. 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 planned residential development provisions shall be paid over to the municipality whose ordinance has been violated.

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

SECTION 470

“R-5” MULTIPLE-FAMILY DWELLINGS AND MOBILE HOME PARKS

SECTION 470: MULTIPLE FAMILY DWELLINGS AND MOBILE HOME PARKS:

The R-5 Multiple-Family Residence District is composed of certain medium-density residential areas of the Township representing a compatible co-mingling of single-unit and multiple-unit dwellings, and mobile home parks, plus certain open areas where similar residential development appears likely to occur. The regulations for this district are designed to stabilize and protect the essential characteristics of the district, to promote and encourage a suitable environment for family life and to prohibit all activities of a commercial nature except those having some aspects of residential use.

SECTION 471: USE:

In this district, the land and structure may be used, and structures may be erected, enlarged, altered and maintained for the following permitted uses:

471.1 Any use permitted in an R-3 district.

471.2 Mobile Home Parks

471.3 Educational Institutions

471.4 Other uses may be authorized provided that they shall have been approved by the Planning Commission and the Board of Commissioners, and which are determined to be for special exceptions permitted by the Zoning Hearing Board.

SECTION 472: DEVELOPMENT STANDARDS:

For development of any use permitted in an R-3 area, those standards prescribed in R-3 shall apply, except as noted further herein for mobile home parks.

SECTION 473: MOBILE HOME PARKS:

473.1 Development Standards:

- a. Minimum size of site: Ten (10) contiguous acres

- b. Minimum lot area: 6,000 square feet
- c. Minimum setback from site property line to side or rear of closest mobile home:
Fifty (50) feet
- d. Minimum setbacks from public road Right-of-Way to side of mobile home:
Thirty (30) feet
- e. Minimum setbacks within the site:
 - (i) Between edge of access street and end or side of mobile home:
Thirty (30) feet
 - (ii) Between parallel ends of adjacent mobile homes: Thirty (30) feet
 - (iii) Between parallel sides of adjacent mobile homes: Thirty (30) feet
 - (iv) Between the end of one mobile home and the parallel side of and adjacent mobile home: Thirty-five (35) feet
 - (v) Determination of relationship of adjacent mobile home: Sides or ends of adjacent mobile homes shall be considered parallel if they form an angle, when the adjacent sides or ends are extended to intersect, of not less than forty-five (45) nor more than one hundred thirty-five (135) degrees.

473.2 Circulation

- a. Each mobile home location on the site shall abut an access road which shall lead directly to the public road serving the property.
- b. All access roads in the site shall be constructed to meet Kennedy Township design standards and shall be approved as to construction in the same manner as streets in a subdivision.
- c. Access roads shall be at least thirty-four (34) feet of width, including stabilized berms if no curbs are installed, or twenty-two (22) feet if curbs are installed.
- d. Parking, if provided in group lots serving mobile homes, shall be no further distant than one hundred (100) feet from the farthest mobile home thus served. Otherwise, each mobile home location shall be provided with two off-street parking spaces with dust-free stabilized surfaces.
- e. Pedestrian circulation ways through the park shall be surfaced with a permanent non-skid material.

473.3 Site preparation, drainage and foundations

- a. The requirements for grading and drainage contained in the Township Slope Ordinance shall be adhered to in preparing a mobile home park site.
- b. Mobile homes shall be supported on a concrete block or reinforced concrete foundation extending at least three (3) feet below finished grade, such foundation capable of bearing the mobile home weight without settlement.

- c. Mobile homes shall be securely fastened to their foundation and the area below the mobile home extending to the ground shall be enclosed with metal or other skirting.

473.4 Utilities

- a. Every mobile home location shall be connected to a public sewage disposal system and public water supply system
- b. If the park is too far removed for connection to an existing public sewage disposal system, it shall be served by an interim disposal plant of the Pennsylvania and Allegheny County Departments of Health
- c. Water may be obtained by one or more wells providing a supply of sufficient quality, quantity and reserve capacity to meet the requirements of the Pennsylvania Department of Health, if it is not feasible to connect to a public water supply.

473.5 Attachments to Mobile Homes

No enclosed permanent addition to a mobile home shall be permitted in a park. Concrete slabs on grade covered by overhead structures attached to a mobile home to provide a patio are allowed, provided such structures are securely fastened to the mobile home and the ground.

473.6 Recreation

- a. A recreation area or areas totaling at least 5,000 square feet in area or at least 500 square feet in area for each mobile home served, whichever is greater, shall be provided in each mobile home park.
- b. The recreation area or areas shall be centrally located and so placed that all portions are on land that does not slope in excess of ten (10) percent in any direction
- c. Recreation areas shall be equipped with appropriate play apparatus, benches and landscaping and shall be maintained by the land owner.

473.7 Other uses within the Park

An office and residence of the owner, operator or manager of the park may be constructed within the park, but no other uses, except central washing and/or laundry facilities, will be permitted.

473.8 Sale of portions of the Mobile Home Park

No portion of an approved mobile home site shall be served for separate sale unless the portion to be sold abuts a public street, unless requirements for setbacks from property lines in a mobile home park are maintained in the original and severed sections and unless access and utilities are separated in each site and neither site is dependent upon the other for any services.

473.9 Procedure

- a. The owner of the land proposed for development as a mobile home park shall submit the following:
 - i. A survey map showing the site boundaries, adjacent streets, public sewer, water, gas and electric systems adjacent to the site or proposed to serve the

site; contours at two (2) foot intervals throughout the site; and location, width and purpose of any easements across the site.

- ii.* A plan showing the location of each mobile home, proposed sewer, water, gas and electric lines, proposed storm drainage system, proposed circulation system, including access roads, parking areas and pedestrian ways, location of recreation area or areas, proposed alteration of contours at two (2) foot intervals, and location of any proposed easements, indicating width and purpose.
- iii.* Written documentation indicating that existing public sewer and water systems are capable of accepting the proposed plan or approvals of the Pennsylvania Department and County Department of Health, indicating adequacy of the park's sewage disposal and water supply plans; and that a bond equal to the anticipated cost of the improvements as determined by the Township Engineer has been posted in favor of Kennedy Township.

473.10 Occupancy of a Mobile Home Park

- a. The owner or operator shall have in his possession a valid permit of the Pennsylvania and Allegheny County Departments of Health for operating a mobile home park before an occupancy permit for any mobile home in the park may be issued.
- b. At least ten (10) mobile home locations in the park shall be constructed with all utilities, access and parking before the permit of occupancy for the first mobile home shall be issued.
- c. The owner and operator of any mobile home park shall not refuse entrance into the park of any Township officer on official business for the purpose of inspecting the premises for compliance with this Ordinance.
- d. The owner or operator of a mobile home park shall be responsible to Kennedy Township for any delinquent taxes owned the Township by former residents of the park no longer living there.

473.11 Mobile Home Standards Code

Any mobile home shall and must be in compliance with:

"Uniform Standards Code for Mobile Homes", Act of May 11, 1972 (No. 69) (35 Purdons Statutes, Sec. 155.1 et. seq.), and the "Industrialized Housing Act", Act of May 11, 1972 (No. 70) (35 Purdons Statutes, Sec. 1651, et. seq.).

SECTION 480: SPECIFIC RESTRICTIONS TO RESIDENTIAL DISTRICTS:

- 480.1** In any residential district, should the property owner own any form of recreational vehicle, and/or boat, which vehicle or boat is kept on or located on the property in any such residential district, no maintenance, other than preventive maintenance,

shall be permitted to be done on any vehicle or boat. It is a specific finding of Board of Commissioners, in consideration of the standards of the community and general interest of public welfare and safety, that only preventative, and thus minor, maintenance is to be done on any recreational vehicle and/or boat that is stored on or located on any property in any residential district.

480.2 As set forth elsewhere in this ordinance, it is a specific finding of the Board of Commissioners, in consideration of the interests of public welfare and safety, that, should any property owner desire to construct any form of accessory shed or similar structure, such shed/structure must be constructed of materials approved by the Township. Any form of converted truck trailer, converted truck bed, and/or vehicle, is not to be considered any form of accessory shed or structure, and the use thereof, for storage purposes, is prohibited.

ARTICLE V COMMERCIAL DISTRICTS

SECTION 500

“C-1” CONVENIENCE COMMERCIAL DISTRICT

SECTION 500: “C-1” CONVENIENCE COMMERCIAL DISTRICT:

The “C-1” Convenience Commercial District is designed to encourage the construction of new shopping facilities and continued use of land for neighborhood commercial service purposes; to prohibit residential, heavy commercial and industrial use of land; to prohibit any other use which would substantially interfere with the development of continuation of the commercial uses and structures in the district; and to discourage any use which because of its character and size would interfere with the use of land in the districts as a shopping and service center for the surrounding residence districts. This district classification is intended to be applied to areas largely surrounded by residential classifications. Because the locations of the “C-1” District and the arrangement of the uses within them are expected to have a close relationship to the over-all plan and protection to residential districts, it is deemed that the exercise of planning judgment on location and site plans is essential.

SECTION 501: USE:

In this district, the land and structures may be used, and structures may be erected, altered, enlarged and maintained for limited commercial use, listed hereunder. Each enterprise shall:

- a. Be conducted entirely within an enclosed building, unless otherwise specifically stated.
- b. Not be objectionable because of odor, smoke, dust, noise, vibration, glaring lights, or similar causes.
- c. Not exceed a gross floor area of ten thousand (10,000) square feet.

In any "C-1" District the uses shall, in addition to conforming to any and all regulations pertaining thereto that are specifically set forth in this ordinance, be in accordance with a site plan or plans approved by the Planning Commission. The site plan shall be submitted and governed by the requirements of applicable Township Ordinances and procedures.

SECTION 502: AUTHORIZED USES:

The following uses are authorized in the C-1 District:

502.1 Permitted uses by right. In this district, the land and structures may be used, and structures may be erected, altered, enlarged, and maintained by right for the following uses only:

- a. Any use permitted in R-3
- b. Shopping centers
- c. Retail stores
- d. Service shops including, but not limited to, laundry, dry cleaning establishments, beauty and barber shops
- e. Banks
- f. Eating and drinking places

502.2 Conditional uses permitted by the Township Commissioners

- a. Group residence facility and personal care home (subject to reference to specific standards)
- b. Oil and gas development (reference to specific standards)

502.3 Special exceptions permitted by the Zoning Hearing Board

- a. extension of a non-conforming use within a non-conforming structure
- b. limited enlargement of a non-conforming structure
- c. temporary structures

502.4 In addition to provisions set forth in this Ordinance relative to C-1 uses R

abutting districts, the following shall apply with regard to automobile care washing facilities, both automated and self-service:

- a. Their hours of operation shall be confined to the hours of 7:00 a.m. to 11:00 p.m. daily.
- b. At all times during their operation, there must be an attendant employed by the owner or tenant of the carwashing facility on the premises.

502.5 Notwithstanding any other provision of this Ordinance to the contrary, no automated car washing facility shall exist in any district where the lot and/or land on which it is constructed would abut any R district. An automated car washing facility is one defined as a facility utilized for the purpose of washing any motor vehicle for which it does not require the services and assistance of the owner and/or operator of the motor vehicle in order to wash, clean or service that motor vehicle.

SECTION 503: SIGNS

Signage may be utilized as set forth elsewhere in this Ordinance.

SECTION 504: PARKING:

Required automobile parking space and loading space, as prescribed in this Ordinance, shall be part of any development.

SECTION 505: HEIGHT:

The maximum heights of structures, except as otherwise provided, in this district shall be:

505.1 Thirty-five (35) feet (not exceeding two and one-half (2 1/2) stories) for a main structure

505.2 Fifteen (15) feet (not exceeding one (1) story) for accessory structures (See General Height Provisions and Exceptions, further herein)

SECTION 506. AREA:

506.1 The minimum lot area for every building hereafter erected or altered shall contain a minimum lot area of twenty thousand (20,000) square feet:

Front Yard Depth: Ten (10) feet, except as provided in Section 506.2.

Side Yard Width: Five (5) feet, except as provided in Section 506.2.

Rear Yard Depth: Ten (10) feet, except as provided in Section 506.2.

506.2 When a side, front or rear yard abuts property in an "R" District:

- a. It shall be screened from such "R" District by a fence, masonry wall or solid fence, six - and-one-half (6 1/2) feet high extending along the property line adjoining the abutting "R" District but not closer to a street than the buildable area of the lot, and have a side and rear yard of at least thirty-five (35) feet.
- b. The said abutting side or rear yard shall be planted and maintained with shrubbery so as to provide a visual screen approximately six-and-one-half (6 1/2) feet high, between the concerned "C" District and the abutting "R" District, and have a side and rear yard of at least thirty-five (35) feet.

SECTION 510

"C-2" - PLANNED SHOPPING COMMERCIAL DISTRICT

SECTION 510: "C2" - PLANNED SHOPPING COMMERCIAL DISTRICT:

The "C-2" Planned Shopping Commercial District is intended as the primary business district of the community for the conduct of general business to which the public requires direct and frequent access, but which is not characterized either by constant heavy trucking other than stocking and delivery of light retail goods, or by any nuisance factors other than occasioned by incidental light and noise or congregation of people and passenger vehicles. This includes such uses as retail stores, theatres, business offices, newspaper offices and printing presses, restaurants, bars, and community garages or community parking areas subject to special regulations. Industrial use of land is prohibited as well as any other use which would substantially interfere with the development or continuation of the commercial structures and uses in the district.

This district classification is intended to be centrally located on or at the confluence of major access highways, so as to serve its purpose. Because the locations of the "C-2" Districts, and the arrangement of the uses within them are expected to have a close relationship to the overall plan and protection of the highways, it is deemed that the exercise of planning judgment on location site plan is essential.

SECTION 511: USE:

In this district, the land and structures may be used, and structures may be erected, altered, enlarged, and maintained for commercial uses listed hereunder. Each enterprise shall not be noxious or offensive by reason of emission of odor, smoke, dust, noise, vibration, glaring light, or similar causes, and there shall be no outdoor storage or display of merchandise or material except that offered for sale on the premises.

In any "C-2" District, the use shall, in addition to conforming to any and all regulations pertaining thereto that are specifically set forth in this Ordinance, be in accordance with a site plan or plans

approved by the Planning Commission. The site plan shall be submitted and governed by provisions of applicable Township ordinances.

Section 512: Permitted Use:

In this district, the land and structures may be used, and structures may be erected, altered, enlarged, and maintained for the following uses only:

512.1 Any use permitted in C-1

512.2 Motels, auto sales, auto service and repair, commercial schools, theatres, shopping centers, wholesale distributing, drive-in restaurants, public speaking garage, and office centers.

512.3 Helicopter landing and operational area and terminal facilities as provided in this Ordinance.

Section 513: Signs

Signs may be erected as prescribed elsewhere in this Ordinance.

Section 514: Parking

Required automobile parking space and loading spaces, as prescribed in this Ordinance, must be provided for any development.

Section 515: Height

The maximum height of structures, except as otherwise provided, in this district:

515.1 Forty-five (45) feet (not exceeding three (3) stories) for main structures.

Section 516: Height Exceptions

516.1 The height of a main building may be increased, provided:

- a. The building or increased height portion thereof is set back from the permitted building lines one (1) foot for each four (4) feet of building height over forty-five (45) feet, or two and one quarter (2 1/4) feet for each story over three (3), whichever results in the greater dimension.
- b. The cubical content of the building does not exceed the cubical content of a solid having a base equal to the buildable area of the lot and a height of forty-five (45) feet.
(See General Provisions and Exceptions, further herein).

Section 517: Area

No "C-2" District planned shopping use or complex shall comprise an area of less than two (2) acres. Each lot in this district shall comply with the following minimum requirements, except as otherwise provided:

Front Yard Depth: Ten (10) feet

Side Yard Depth: Five (5) feet except in the following instances:

- a. When side lot line abuts an "R" District - See Section 517.1
- b. A side yard abutting a street - not less in width than the depth of front yard required on the adjoining lot on that street.

Rear Yard Depth: Same as side yard requirement.

517.1 When a side or rear yard abuts property in an "R" District:

- a. It shall be screened from such "R" District by a masonry wall or solid fence, six and one-half (6 1/2) feet high extending along the property line adjoining the abutting "R" District but not closer to a street than the buildable area of the lot, and have a side and rear yard of at least thirty-five (35) feet.
- b. The said abutting side or rear yard shall be planted and maintained with shrubbery so as to provide a visual screen approximately six and one-half (6 1/2) feet high, between the concerned "C" District and the abutting "R" District, and have a side and rear yard of at least thirty-five (35) feet.

SECTION 520

"C-3" HIGHWAY COMMERCIAL DISTRICT

SECTION 520: "C-3" HIGHWAY COMMERCIAL DISTRICT:

The "C-3" Highway Commercial District is intended to encourage highway oriented commercial-type facilities; to prohibit residential, or heavy industrial use of land which could substantially interfere with traffic flow.

This district classification is intended to be placed along major roadways or highways so as to serve its purpose because the locations of the C-1 District, and the arrangement of the uses within them are expected to have a close relationship to the overall plan and protection of the highway and adjacent residential areas, it is deemed that the exercise of planning judgment and site plan is essential.

SECTION 522: USE

In this district, the land and structures may be erected, altered, enlarged, and maintained for commercial uses listed hereunder. Each enterprise shall not be noxious or offensive by reason of emission on odor, smoke, dust, noise, vibration, staring light, or similar causes, and there shall be no outdoor storage or display of merchandise or material except that offered for sale on the premises. In any "C-3" District, the uses shall, in addition to conforming to any and all regulations pertaining thereto that are specifically set forth in this ordinance, be in accordance with a site plan or plans approved by the Planning Commission. The site plan shall be submitted and govern by the provisions of Ordinance No 348.

SECTION 523: PERMITTED USES:

In this district, the land and structures may be used, and structures may be erected, altered, enlarged, and maintained for the following permitted uses only:

- 523.1** Any use permitted in "C-2" Districts.
- 523.2** Amusement enterprise, including the following: Billard, bowling alley, theater or cinema (other than drive-in theater), when conducted entirely within a completely enclosed buildings
- 523.3** Automobile truck and house trailer sales and supply business with incidental service, provided sales area is located and developed as required in Section 900.3.
- 523.4** Automobile service station, including automobile car washing enterprises, automobile and truck storage and repairing provided:
 - a. Such activities and storage shall be conducted entirely within an enclosed building;
 - b. No stand, rack or other paraphernalia other than in direct connection with merchandise offered for sale shall be manifest outside a completely enclosed building.
- 523.5** Health clubs
- 523.6** Beverages, retail or wholesale distribution of
- 523.7** Business college; trade or proprietary school
- 523.8** Garden suppliers, nursery
- 523.9** General photography (including blueprinting and photostating)
- 523.10** Hospital for small animals (dogs and the like), including kennel, provided yards are enclosed and a lot area of at least three (3) acres
- 523.11** Printing plants
- 523.12** Recreation uses in the district need not be within an enclosed building
- 523.13** Restaurant and bar (with or without dancing and live entertainment)
- 523.14** Conditional use for storage facility, storage facilities, so long as such storage is entirely within an enclosed structure, may be authorized by the Board of Commissioners. It is specially noted, however, that storage is not permitted for the following:
 - a. Celluloid
 - b. Coal and coke
 - c. Garbage, offal, dead animals or refuse
 - d. Gas (in its various forms except propane) in excess of ten thousand (10,000) cubic feet
 - e. Gasoline in excess of an amount necessary for use on the premises or to supply retail trade at service stations
 - f. Gunpowder, fireworks or other explosives or nuclear reactive materials
 - g. Junk, scrap, metal, paper, rags, or junk automobile parts

- h. Petroleum and petroleum by-products in excess of an amount necessary for use on the premises.
- i. Raw hides or skins.

SECTION 524: SIGNS:

Signs, as prescribed elsewhere in this Ordinance, may be erected.

SECTION 525: PARKING:

Developments in this district shall provide required automobile parking space and loading space as prescribed further herein.

SECTION 526: HEIGHT:

Same as in "C-2" Districts.

SECTION 527: HEIGHT EXCEPTIONS:

Same as in "C-2" Districts.

SECTION 528: AREA:

Same as in "C-2" Districts

**ARTICLE VI
PROVISIONS GOVERNING INDUSTRIAL DISTRICTS
SECTION 600
"M-1" LIMITED INDUSTRIAL DISTRICT**

SECTION 600: "M-1" LIMITED INDUSTRIAL DISTRICT:

The "M-1" Limited Industrial District is intended to permit and encourage industrial development that will be so located and designed as to constitute a harmonious and appropriate part of the physical development of the Township, contribute to the soundness of the economic base of the Township, provide opportunities for local employment close to residential areas, thus reducing travel to and from work and otherwise further the purposes set forth in the initial paragraphs of this Ordinance. The limitations on use height and lot coverage are intended to provide for modern light industrial development in a suburban landscaped setting; residential and the more general commercial uses not compatible or continuation of the industrial uses and structures in the district.

Because the nature of the uses, the locations of the “M-1” Districts and the arrangement of the uses within them are expected to have a close relationship to the overall plan, it is deemed that the exercise of planning judgment on location and site plan is essential.

SECTION 601: USE:

In this district, the land and structures may be used, and structures may be erected, altered, enlarged and maintained for limited light industrial uses listed hereunder when conducted within an enclosed building unless otherwise specifically stated, provided:

- a. No explosive or radioactive materials or processes are involved
- b. No smoke, fumes, odor, dust, noise, vibration or glaring light is noticeable from outside any lot in the district
- c. The use is not offensive by reason of emission of refuse matter or water-carried waste.

In an “M-1” District, the uses shall, in addition to conforming to any and all regulations pertaining thereto that are specifically set forth in this Ordinance, be in accordance with a site plan or plans approved by the Planning Commission. The site plan shall be submitted and governed by the provisions of Ordinance No. 348.

SECTION 602: PERMITTED USES:

Permitted uses are:

- 602.1** Any use permitted in “C-3”.
- 602.2** Assembly of small electrical appliances.
- 602.3** Community garage, garage for major automobile repair, painting, upholstering, tire retreading recapping, battery manufacture, and the like, provided (See Section
 - a. Sale and service of fuel and lubricating oil need not be within an enclosed building.
 - b. No stand or other paraphernalia, other than, or in direct connection with, merchandise offered for sale, is manifest outside a completely enclosed building.
- 602.4** Boatbuilding, of only small boats.
- 602.5** Building materials sales establishment need not be within an enclosed building.
- 602.6** Distribution plant, including parcel delivery storage plant, bottling plant, and food commissary or catering establishment.
- 602.7** Laboratory - experimental, photo, or motion picture, film or testing.
- 602.8** Machinery, sales and display - need not be within an enclosed building.
- 602.9** Manufacturing, fabricating, compounding, assembling, or treatment of articles of merchandise from the following previously prepared materials: bone, canvas, cellophane, clay, cloth, cork, feathers, felt, fiber, fur, glass, hair, horn, leather, paint, not employing a boiling process, paper, rubber, plastics, precious or semi-precious metals or

stones, shell, straw, textiles, tobacco, wood, but not including heavy woodworking shop, and yarns.

602.10 Manufacture of pottery and figurines or other similar ceramic products, using only previously pulverized clay.

602.11 Manufacture, fabrication and maintenance of electric and neon signs, billboards, commercial advertising structures, metal products of a light nature, including heating and ventilating ducts and equipment, cornices, eaves, and the like, and also including plumbing, heating or electrical contracting business.

602.12 Manufacture of musical and small precision instruments, watches and clocks, toys, novelties rubber and metal hand stamps.

602.13 Manufacture, processing, canning, packaging or treatment of such products, as beverages, cosmetics, drugs, perfumed toilet soap, perfumes, pharmaceuticals, and food products, not including fish smoking, curing or canning, rendering of fats and oils, or the slaughter of animals.

SECTION 603: PARKING:

Required automobile parking space and loading space, as prescribed in this Ordinance, need not be within an enclosed building, and shall be available as set forth herein.

SECTION 604: SIGNS:

Signs, as prescribed in this Ordinance-need not be within an enclosed building, and shall comply with this Ordinance.

SECTION 605: HEIGHT:

The maximum heights of structures, except as otherwise provided in this district, shall be:

605.1 Forty-five (45) feet (not exceeding three (3) stories) for main structures

605.2 Fifteen (15) feet (not exceeding one (1) story) for accessory structures

(See General Height Provisions and Exceptions, Section 901)

SECTION 606: AREA:

Each lot in this district shall comply with the following minimum requirements, except as otherwise provided:

606.1 Front yard depth Thirty-five (35) feet

606.2 Side yard width none required except in the following instances:

a. When side lot line abuts an "R" District seventy (70) feet

b. A side yard abutting a street - not less in width than the depth of front yard required on the adjoining lot on that street

606.3 Rear yard depth Seventy (70) feet, when rear lot line abuts an R District, otherwise, none required.

606.4 When a side or rear yard abuts property in an “R” District

- a. It shall be screened from such “R” District by a masonry wall or solid fence, six and one-half (6 1/2) feet high extending along the property line adjoining the abutting “R” District but not closer to a street than the buildable area of the lot; or
- b. The said abutting side or rear yard shall be planted and maintained with shrubbery so as to provide a visual screen approximately six and one-half (6 1/2) feet high, between the concerned “R” District and the abutting property.

SECTION 610

“M-2” GENERAL INDUSTRIAL DISTRICT

SECTION 610: “M-2” GENERAL INDUSTRIAL DISTRICT:

The “M-2” General Industrial District is intended to permit and encourage industrial development that will be so located and designed as to constitute a harmonious and appropriate part of the physical development of the Township, contribute to the soundness of the economic base of the Township, provide opportunities for local employment close to residential areas, thus reducing travel to and from work, and otherwise further the purposes set forth in the initial paragraphs of this Ordinance. The limitations on use, height, and lot coverage are intended to provide for modern light industrial development in suburban landscaped setting; residential and the more general commercial uses are considered not compatible or continuation of the industrial uses and structures in the district. Because the nature of the uses, the location of the M-2 Districts, and the arrangement of the uses within them are expected to have a close relationship to the overall plan, it is deemed that the exercise of planning judgment on location and site plan is essential.

SECTION 611: USE:

In this district, the land and structures may be used, and structures may be erected, altered, enlarged, and maintained for limited light industrial uses listed hereunder when conducted within an enclosed building unless otherwise specifically stated, provided:

- a. No explosive or radioactive materials or processes are involved.
- b. No smoke, fumes, odor, dust, noise, vibration, or glaring light is noticeable from outside any lot in this district.
- c. The use is not offensive by reason of emission of refuse matter or water-carried waste.

In an M-2 District, the uses shall, in addition to conforming to any and all regulations pertaining thereto that are specifically set forth in this Ordinance, be in accordance with a site plan or plans

approved by the Planning Commission. The site plan shall be submitted and governed by the provisions of Ordinance No 348.

SECTION 612: PERMITTED USES:

The permitted uses are:

612.1 Any use permitted in M-1

612.2 Junk yard

SECTION 613: PARKING:

Any development shall provide required automobile parking space and loading space, as prescribed this Ordinance, it being specifically noted that the parking need not be within an enclosed building.

SECTION 614: HEIGHT AND AREA:

Same as in M-1 District, except that if a junk yard is established in this District, the junk yard operator must have at least ten (10) contiguous acres and must not have any storage of junk any closer than three hundred (100) feet from any of its boundaries.

SECTION 620: JUNK YARDS:

It is further provided that any use of land for a junk yard must be conducted with a solid board fence sufficiently high to screen effectively the contents from public view, the maintenance of which is in good repair shall be prerequisite to the continued conduct of the activity conducted therein. Two or more abandoned automobiles not removed for one month shall be deemed to be a junk yard.

SECTION 630: ADULT BUSINESSES:

The provisions of this section shall specifically apply to any adult business that is to be developed within the township. As considered herein, such business operation is specifically considered to be one which the average person, in applying the contemporary community standards of the Township of Kennedy, would find appeals to individuals prurient interests, and which involves, in any manner, the sale, display, provision, or other involvement with material which depicts, or in any way describes, sexual acts, whether actual or simulated, the exhibition of genitals, or the genital area, excretory functions of any manner, or other forms of matters generally and reasonably recognized as being such matters as applied to the general concept of "adult entertainment", or the like. It is specifically recognized, by the Board of Commissioners of the Township of Kennedy, that any and all forms of "adult entertainment" are contrary to the senses and public morals of the residents of Kennedy Township, and impact on the health, safety, convenience, good morals, and general welfare of the

Township and of the residents, citizens, inhabitants, schools, churches, and businesses located in the Township. As such, any such business may only exist in an Industrial District.

SECTION 631: SIGNS:

Any such business may have signage as prescribed in this Ordinance.

SECTION 632: PARKING:

Required automobile parking space and loading space, as prescribed in this Ordinance must be provided.

SECTION 633: HEIGHT:

The maximum height of structures hereunder shall be twenty-five (25) feet (not exceeding one and one half (1½) stories).

SECTION 634: AREA, YARD COVERAGE AND SUPPLEMENTARY REGULATIONS:

Lot Area Minimum: Fifteen Thousand (15,000) square feet.

Width Minimum: One Hundred (100) feet at the building line.

Yards Required: Front Yard Minimum: Forty (40) Feet

Side Yard Minimum: Thirty (30) feet, the combined total for interior lots shall not be less than sixty (60) feet.

Rear Yard Minimum: Thirty (30) feet.

Coverage Maximum: The structure cannot cover more than thirty-five percent (35%) of the area minimum.

Location: **A.** An adult business shall not be, or cause to be, established, operated and/or maintained within one thousand (1,000) feet of:

- (i) A church;
- (ii) A public or private educational institution;
- (iii) A public library;
- (iv) A child care facility or nursery school;
- (v) A child oriented business; or
- (vi) A public park adjacent to any residential district.

For the purpose of this section of the ordinance, measurement shall be made in a straight line, without regard to intervening structures or objects, from the of the building or structure used as a part of the premises where an adult business is conducted, to the

nearest property line of the premises of a church, public or private educational institution, public library, child care facility or nursery school, child oriented business or public park adjacent to any residential district.

- B. Only one adult business may be established, operated and/or maintained in the same building, structure or portion thereof.
- C. An adult business shall not be, nor cause to be, established, operated and/or maintained within one thousand (1,000) feet of another adult business. For the purpose of this section of this Ordinance, measurement shall be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structure used as a part of the premises where an adult business is conducted to the nearest property line of the premises of another adult business.

SECTION 650: USES NOT AUTHORIZED:

- 650.1** In recognition of applicable law, which would require the township to provide for all reasonable, and legal, uses, the township recognizes that future, potential uses may occur, that have not been considered or complicated, or which may have not been provided for under the provisions of this Ordinance.
- 650.2** Any uses not expressly authorized in any of the districts set forth under this Ordinance, shall be a conditional use in any manufacturing or industrial district, subject to the criteria, guidelines, concerns, and conditions set forth under the provisions of this ordinance.

ARTICLE VII NON-CONFORMING USES AND STRUCTURES

SECTION 700

SECTION 700: NONCONFORMING USE OF LAND OR BUILDING:

Except as hereinafter provided in this article the lawful use of a building or structure or of any land or premises existing at the time of the effective date of this ordinance or at the time of a change in the district map may be continued although such use does not conform to the provision hereof.

SECTION 701: CHANGES:

A non-conforming use may be changed only to a use permitted in the district in which it is located. Once changed to a conforming use no building or land shall be permitted to revert to a non-conforming use.

SECTION 702: REPAIRS AND ALTERATIONS:

May be made to a non-conforming building or structure, provided that in a building or structure which is non-conforming no enlargement shall be made.

SECTION 703: RECONSTRUCTION OF STRUCTURE USED BY A NON-CONFORMING USE:

A structure used by a non-conforming use at the time of the passage of this amending Ordinance may not be reconstructed or structurally altered to an extent exceeding in aggregate cost fifty (50%) percent of the assessed valuation of the structure as assessed for County taxes, unless the use of said structure is changed to a conforming use.

SECTION 704: REPAIRS AND ALTERATIONS TO NON-CONFORMING USES:

This section shall not prohibit minor repairs or alterations to a non-conforming building or use, which alterations or repairs do not require the removal or replacement of any structural member, increase the floor area of the building or change the use thereof.

SECTION 705: RECONSTRUCTION OF DAMAGED STRUCTURES:

When a non-conforming structure or a structure containing a non-conforming use is damaged by fire, flood, wind, or act of God, such structure may be reconstructed and used as before any such calamity, provided such reconstruction takes place within one year of the calamity.

SECTION 706: DISCONTINUANCE OF USE:

In the event that a non-conforming use of any building, structure, or land is discontinued for a period of one (1) year, the use of the same shall thereafter conform to the use permitted in the district in which it is located.

ARTICLE VIII

EXTERIOR WALL SURFACES, FENCING, AND THE LIKE

SECTION 800

SECTION 800: "C" DISTRICT EXTERIOR WALL SURFACES, FENCING, AND THE LIKE:

In all "C" Districts, the following exterior wall surfaces shall apply:

No building shall be erected in these districts, whether main or accessory, which has any part of its exposed exterior wall surface composed of concrete block or cinder block except as hereinafter set forth. Exposed exterior surfaces on such buildings shall be composed of the following materials only, unless an additional material is approved by the Board of Township Commissioners to be of equal or superior quality when used under the circumstances proposed:

- a. Brick
- b. Stone;
- c. Glass;
- d. Metal, only as approved by the Board of Township Commissioners;
- e. Marble;
- f. Wood;
- g. Concrete block may be used for exposed exterior wall surfaces on the rear wall only where upon approval of the Board of Commissioners; such building is so located that such rear wall would not be viewable by passersby or any part of the general public.

SECTION 801: RETAINING/LANDSCAPE WALLS:

- a. No person shall construct a Retaining or Landscape Wall in the Township without first obtaining any and all necessary permits, including zoning and building permits, from the Township.
- b. Retaining and/or Landscape Walls shall be constructed and maintained so as not to create a physically hazardous nor otherwise offensive condition.
- c. In all zoning districts, only the following materials shall be used in the construction of retaining and/or landscape walls.
 - 1. Brick
 - 2. Stone
 - 3. Metal (Retaining walls only), as approved by the Planning Commisison and Board of Commissioners).
 - 4. Landscape Ties

5. Concrete block (as approved by the Planning Commission and the Board of Commissioners).

SECTION 802: FENCES, EXTERIOR WALLS, SHRUBS and BARRIERS:

802.1 PERMIT REQUIRED: In consideration of the health, safety and welfare of the residents of Kennedy Township, no person, corporation, partnership, company or other entity shall construct, install, add to, or alter a fence, wall or other barrier unless any and all permits are first secured.

802.2 DRAWING REQUIRED: A drawing with precise dimensions and materials to be used shall be submitted with the permit application. Any fence, wall or barrier or combination thereof which is erected and does not comply with the drawing submitted by the applicant shall be deemed a violation of Ordinance 478.

802.3 SETBACKS: Subject to the following conditions, fences may be erected

along the boundaries of a lot. It is specifically noted that consideration of a "fence" shall be considered to be any form of fence, wall, and/or the utilization of shrubbery that is designed to separate properties.

1. Any fence, wall, and/or shrubbery utilized as a fence/wall/divider shall be erected along the boundaries of a lot with a setback of not less than two (2) feet.
2. Front Yard Fences shall be no more than four (4) feet in height, shall have an area setback of not less than two (2) feet. A fence, wall, shrub or other plantings or objects which abut an intersection will be restricted by a clear sight triangle of at least seventy-five (75) feet so as not to obstruct the view of oncoming traffic.
3. Side and Rear Yard Fence not more than seven (7) feet in height may be erected in any required side or rear yard within the buildable area. A fence not more than ten (10) feet in height may be built in any required yard for schools, playgrounds, or parks; or in any required side or rear yard in commercial or industrial districts.
4. Any fence that is erected shall be of durable material and shall be constructed so as to be compatible with the characteristics of the neighborhood and constructed of materials in use within the zoning district. Such fences include but are not limited to cyclone fences, redwood or similar wood material fences and fences constructed of plastic or approved non-wood material.

802.4 PROHIBITED FENCES, WALLS OR OTHER BARRIERS:

1. Barbed wire and all other fencing, walls or barriers that are designed to cut or injure are prohibited in all residential districts. In zoning districts other than Residential, such fencing, wall or barrier shall not be

permitted, unless a request is made to the Board of Commissioners and approved by a majority vote at a public meeting.

2. No fence, wall or other barrier or any combination thereof of any type shall be erected or permitted to remain in any public or utility right of way. If a fence, wall or other barrier or any combination thereof of any type is erected or permitted to remain in any public or utility right of way, the property owner shall be deemed to have consented to the Township to remove the same and the costs therefore assessed to the property owner as a confession of judgment.
3. Fences, walls or other barriers or any combination thereof shall not be constructed of Jersey Barriers, I-Beams (except when used for weight bearing), Barrels or Drums, Wooden Pallets, Plywood Sheets or any other materials not generally utilized or accepted in the industry as appropriate for said purpose.

802.5 CONSTRUCTION STANDARDS:

1. All fences, walls or other barriers erected must be of good quality and workmanship and must be firmly and sturdily footed in the ground. Only those materials regularly used in the industry for the construction of fences may be utilized.
2. The finished surface of materials used construct a fence shall face the abutting property or where, because of the method of construction, there is no distinction in surface treatment, the material shall be placed at the discretion of the property owner who secured the permit.

802.6 TREATMENT OF METAL FENCES:

1. Any fence erected which is made of a metal fabric or which is partially made of any metal fabric, shall be galvanized or otherwise treated to prevent the formation of rust, and the metal used in the fabric shall be at least eleven (11) gauge or heavier.
2. Any fence which becomes more rusted than not shall be repaired or replaced by the property owner within sixty (60) days notice thereof.

802.7 MAINTENANCE; STURDINESS:

1. All fences, walls, or other barriers shall be maintained in a sturdy and good condition. Fences, walls or other barriers which overturn, collapse, fall, deteriorate or become loose, rusted or rotted, whether in whole or in part, shall be repaired, replaced or removed with (60) sixty days notice thereof. To the extent that shrubbery is involved with the fences, or is utilized as a fence to divide properties, such shrub shall be maintained so as to not encroach upon the adjacent property.

2. Any fence, wall or other barrier that cannot support a weight equal to one hundred (100) pounds without bending, breaking, leaning or moving shall be deemed not to be sturdy.

802.8 NOTIFICATION OF VIOLATION

1. A letter to notify violators of this provision may be sent by the Manager, Police Department or if so directed, the designated Building Inspector.

802.9 VIOLATION, PENALTY

As noted in section 1402, an appropriate fine, along with costs, or other relief, may be imposed for any violation of this subsection of the Ordinance.

ARTICLE IX

GENERAL PROVISIONS

SECTION 900

CONFORMANCE AND PERMITS

SECTION 900: CONFORMANCE AND PERMITS:

- 900.1** No building or land shall, after effective date of this Ordinance, except for existing non-conforming uses, be used or occupied and no building or part thereof shall be erected, moved, or altered unless in conformity with the regulations herein specified for the district in which it is located, and then only after applying for and securing all permits and licenses required by all laws and Ordinances.
- 900.2** No part of a yard or other open space about any building required for the purpose of complying with the provisions of this Ordinance shall be included as a part of a yard or open space similarly required for another building.
- 900.3** Any use involving as a principal part of the conduct of business, the use or servicing of motor vehicles, such as an automobile service station or sales area, community or major garage or parking area, distribution plant, or freighting or trucking terminal shall be so located that no vehicular entrance or exit shall be closer than three hundred (300) feet to an entrance or exit of any elementary or secondary or vocational school, playgrounds, church, or public library located on the same side of a street or way. Similarly, no entrance or exit to any elementary or secondary or vocational school, playground, church, or public library shall be located closer than three hundred (300) feet to a vehicular entrance or exit of such use as above noted.
- 900.4** No lodgers, or roomers shall be permitted in any dwelling unit within the Township of Kennedy.

- 900.5** Where approval of site plan or plans by the Planning Commission is prerequisite to the issuance of a permit, other than in a PUD district, in which event the provisions in the PUD Section of this Ordinance shall control, action shall be taken by the Planning Commission in accordance with the requirements of Ordinance No. 348.
- 900.6** Where one (1) parcel of property is divided into two (2) or more portions by reason of different zoning district classifications, each of these portions shall be used independently of the others in its respective zoning classification; and for the purposes of applying the regulations of this Ordinance, each portion shall be considered as if in separate and different ownership.
- 900.7** A temporary structure or use, purely incidental to an authorized use, may be permitted for a period not exceeding ninety (90) days, provided such structure shall be complete in itself, and not a part of a future building, without basement and intended only for a temporary storage of materials and/or tools or as a construction or sales office and not for use as a dwelling or garage. The use shall be construed to include construction trailers limited to the aforesaid storage or office use.
- 900.8** Nothing in the district regulations shall be held to prohibit the erection of a one-family dwelling upon a lot whose size is inadequate to meet the lot area regulations set for the district, provided such lot on the effective date of this ordinance was held under separate ownership from the adjoining lots or is a lot in a recorded plan which complies with all district regulations except lot area requirements.
- 900.9** A site restoration bond to assure restoration of the site to an approved condition in the event that construction of a proposed development in accordance with approved plans and zoning requirements does not occur may be required by the Municipality in "R-2", "R-3", "C" and "M" zoning districts.

SECTION 901: GENERAL HEIGHT PROVISIONS AND EXCEPTIONS:

- 901.1** The permitted heights of structures shall be measured from the basic grade as hereto defined. On a corner lot the basic grade shall be the mean of the basic grades of both frontages. On a through lot, the basic grades of each frontage shall control the permitted height of the structure to one-half (1/2) the depth of the zoning lot.
- 901.2** A structure conforming as to use, but not complying with the height regulations, of the district in which it is located, may be restored if damaged or partially destroyed by fire, flood, wind, or other calamity or act of God, in the same location, not exceeding the same height, and for the same use, as it was before the occurrence.
- 901.3** A structure conforming as to use, but not complying with the height (or area) regulations, may be enlarged, provided the enlarged portion thereof complies with all the regulations of this Ordinance.

- 901.4** The following structures or portions thereof may extend above the height limit of the district in which the same is located, provided every portion of such structure above the height limit is at least as many feet distant from bordering or opposite properties as that portion of the structure is in height.
- a. Church towers and spires
 - b. Penthouse or roof structures for the housing of elevators, stairways, tanks, ventilating fans, or similar equipment required to operate and maintain the building
 - c. Fire or parapet walls, skylights, towers, steeples, flag poles, chimneys, smokestacks, wireless masts, water tanks, silos, or similar structures.
- 901.5** In measuring the height of a building in stories, a basement shall be counted as a story, only when sixty (60%) percent or more of the front wall surface thereof, between the floor and ceiling is above the grade level of the ground, abutting the front wall of the structure, as shown on the construction plans.

SECTION 902: GENERAL AREA PROVISIONS AND EXCEPTIONS:

- 902.1** Any portion of a lot once used as a yard, or as a lot area in compliance with the area requirements of the district regulations of this Ordinance, shall not be counted again as required yard or lot area for another structure.
- 902.2** On a through lot, the rear yard depth shall not be less than, but need not exceed, the required depth of front yard in the district in which such lot is located.
- 902.3** A buttress, chimney, cornice, pier, or pilaster, projecting no more than twenty-four (24) inches from the wall of the building may project into a required yard.
- 902.4** A screening wall, shrubbery and/or fence, no more than four (4) feet in height, may be erected in any required side or rear yard or within the buildable area, exceeding ten (10) feet in height, may be built in any required yard for schools, playgrounds, or parks; or in any required side or rear yard in commercial or industrial districts.
- 902.5** Public service lines for the transportation and distribution and control of water, electricity, gas, oil, steam, telegraph and telephone communication, or railroad trackage, and supporting members other than buildings, shall not be required to be located on an individual building lot nor be held to reduce the required yard dimensions for other structures on a lot.
- 902.6** Landscape features, such as trees, shrubs, or flowers, soil cultivation, plants, and plantings, shall be permitted in any required yard provided that when in a front yard they do not constitute a hedge effect more than one and one-half (1 1/2) feet in height above the ground level adjacent thereto.
- 902.7** A group residence facility in "R-4" Planned Unit Development District or personal care home located in a "C-1" Convenience Commercial District shall be located not less than one mile from any other group residence facility, personal care home, nursing home, drug and/or alcohol residential or out-patient clinic, or similar facility, half-way house or agency. This one

mile separation distance is measured by drawing a circle with one mile radius where the center of the circle is the proposed facility.

SECTION 903: FARMS:

No farm animal shall be kept on any property in any district unless the owner or keeper of the animal has at least five (5) contiguous acres on which the animal is to be kept.

SECTION 904: HOME OCCUPATION:

In an "R" District, a home occupation (including home office) carried on within a dwelling unit by a resident thereof as a customary secondary use, shall be authorized, provided:

- a. In connection with an occupation which there is no person employed, no display, no sign other than a name plate, no mechanical equipment used other than normal domestic or household equipment, and no selling of a commodity or non-professional service on the premises
- b. In connection with a home office, not more than one (1) assistant is employed and no colleagues or associates use such office
- c. The use does not occupy more than twenty-five (25%) percent of the total floor area of one (1) floor, and does not require internal or external alterations or involve construction features not customary in dwellings
- d. In addition to automobile parking space required for the dwelling use, parking space shall be required for the home occupation according to the nature of the use and the need as determined by the Board, at the rate of one (1) parking stall for every two hundred (200) square feet of home occupation floor area.
- e. Reasonable safeguards are established against possible detriment to the neighboring properties through emission of smoke, fumes, odors, dust, noise, vibration, or glaring light, as determined by the Board.
- f. Exceptions as may be related to any approved home occupation may be considered, upon petition of the Board of Commissioners. In conjunction with any such petition, it is a recognized interest and concern, and applicable standard, that any exception will be considered solely if the area in question is of sufficient acreage, so as not to allow any form of immediate distraction or nuisance to any adjacent properties.
- g. Only residents of the dwelling may be engaged in the home occupation.
- h. The home occupation shall be clearly incidental to the residential use of the dwelling and shall not change the essential residential character of the building.
- i. There shall be no display, stock in trade, or commodity sold on the premises, and no mechanical equipment used except such as is commonly used for purely domestic household purposes.

- j. Use of the building for a home occupation shall not exceed thirty percent (30%) of one (1) floor of the principle building (excludes a family day care use).
- k. No alterations inconsistent with the residential use of the building shall be permitted.
- l. The occupation shall not constitute a nuisance in the neighborhood.
- m. No accessory buildings or outside storage shall be used in connection with the occupation.
- n. Instructions in music shall not create sound at an audible level which may be a nuisance to neighboring properties.
- o. Vehicles used primarily as passenger vehicles only shall be permitted in connection with the conduct of the home occupation.
- p. No commercial equipment such as landscaping equipment or machinery associated with construction, grading, or hauling shall be allowed to be stored or parked on the property.
- q. The following and similar uses shall be considered customary home occupations: art instruction, beauty shop (with no more than one stylist), doctor's office, drafting, dressmaking, insurance agency, manufacturing agent, music instruction, notary public, photography, real estate agency, tax consultant, or any other home office consisting of a personal computer, FAX machine, phone, or any other accessory office equipment typically used to establish a home office.
- r. All home occupations must have an occupational tax certificate

SECTION 905: *AIR-TERMINAL FACILITIES:*

In any district where a helicopter landing and operational area and terminal facilities are allowed, the following must be adhered to:

- a. The landing and operational area shall not be less in size than the minimum recommended by such state and/or federal agencies authorized to advise or regulate such aircraft installations.
- b. The landing area shall be located not closer than three hundred (300) feet to any property in an "R" or "C-1" District and shall be located not closer than one hundred (100) feet to any street.
- c. Minor servicing shall be permitted in any of the districts, but major servicing and repair facilities shall be permitted in M District only.

Section 906: *Temporary/Portable Storage Units:*

- 906.1** A Kennedy township temporary portable storage unit permit shall be required whenever a temporary portable storage unit is placed on private, commercial, industrial or residential property for every thirty (30) days or portion thereof for a maximum period of sixty (60)

days. The permit holder may, due to special circumstances, apply for an extension of the placement of a temporary portable storage unit in excess of sixty (60), provided the extension request is filed prior to the expiration of the sixty (60) day period of the permit. The permit holder may, due to special circumstances, apply for an exemption from the temporary portable storage unit placement requirements. The Township, when considering the request for an extension of the allowed sixty (60) day period or an exemption from the temporary portable placement requirements, may set conditions of approval and establish a special fee. No permit extension shall exceed one hundred twenty (180) days.

- 906.2** The maximum size of any temporary portable storage unit shall not exceed eight (8) feet in width, eight (8) feet in height and sixteen (16) feet in length. The maximum number of placements per lot is two (2) per calendar year for a maximum number of sixty (60) consecutive days per placement or one hundred twenty (120) days per calendar year, unless an extension is obtained pursuant to Section 906.1 above. The maximum number of temporary portable storage units that can be on a lot at one given time is one (1) unless an exemption and approved conditions are first obtained from the Township.
- 906.3** The temporary portable storage unit cannot encroach on Township property, Township rights-of-way, neighboring property, sidewalks or any other right-of-way whether private or public. The unit must be sited on asphalt, concrete, gravel or other hard surface between the front property line and the rear building line of the principal structure. The site distance between the temporary portable storage unit and the side yard property line is ten (10) feet. The ten (10) foot side yard setback may be waived if the applicant's neighbor(s) consent, in writing, to a side yard setback placement that is less than ten (10) feet and the Code Enforcement Official confirms the neighbor's consent.
- 906.4** All temporary portable storage units shall be free of rust, peeling paint, or other visible forms of deterioration and shall be painted or covered in a manner that is aesthetically consistent with nearby and surrounding structures so as not to diminish the quality of living, property values, and health, safety and welfare of the residents of Kennedy Township. Temporary portable storage units shall not be used to house animals or humans.
- 906.5** Temporary portable storage units shall only be allowed upon application and the issuance of a permit. The permit shall be displayed either on the front exterior surface of the unit in a plastic liner or in the front window of the residence or front window of the premises' principal structure. The Code Enforcement Official or designated representative shall have the discretion to grant a grace period not to exceed five (5) days for a new, first time residential property owner or residential tenant.
- 906.6** Responsibilities of Lessor/Lessee and User: The Lessor/Lessee and User of the temporary portable storage unit shall be jointly responsible to ensure that the portable storage unit is in good condition, free from evidence of deterioration, weathering, discoloration, rust, ripping, tearing or other holes or breaks. When not in use, the portable storage unit shall be kept locked. Lids and doors shall be kept tightly and completely closed when not in use. No

hazardous substances are permitted to be stored or kept within a portable storage unit. The area surrounding the portable storage unit shall be kept clean and free of loose debris. The Lessor/Lessee and User shall clearly indicate their name and contact telephone number on the temporary portable storage unit.

- 906.7** Any temporary portable storage unit placed on a property without the issuance of a permit shall be subject to a fine of Five Hundred (\$500.00) Dollars for every day that such illegal use continues as well as reasonable attorney fees and Court costs incurred by Kennedy Township in pursuing the enforcement of this Ordinance. Both the owner of the real property and the owner of the temporary portable storage unit are subject to the requirements and sanctions set forth in this Ordinance.

ARTICLE X SIGNS

SECTION 1000

SECTION 1000: "R" DISTRICT SIGN REGULATIONS:

In "R" Districts, the following signs shall be permitted and the following regulations shall apply:

- 1000.1** One (1) identification sign for a multi-family dwelling or a home occupation. When for a multi-family dwelling, not to exceed twelve (12) square feet; when for a home occupation, not to exceed one and one-half (1 1/2) square feet.
- 1000.2** One (1) bulletin board per street for church or similar place of worship, each not to exceed thirty (30) square feet.
- 1000.3** Temporary unlighted real estate sign, not to exceed thirty (30) square feet.
- 1000.4** Directional sign, not exceeding one and one-half (1 1/2) square feet.
- 1000.5** In connection with a parking facility, directional signs not to exceed eight (8) square feet each.
- 1000.6** Traffic control signs installed and maintained by the Municipality, County of Allegheny, Commonwealth of Pennsylvania or any governmental authority.
- 1000.7** Any use other than specified in Paragraphs 1000.1-1000.6 herein, not to exceed twelve (12) square feet per principal building or use.
- 1000.8** Billboards are specifically prohibited in any "R" District.
- 1000.9** All signs in any "R" District shall be non-flashing and non-animated; those not attached to a building shall be set back at least fifteen (15) feet from lot or street line; and no sign shall project above the roof or be mounted on a building above the eave line of a roof.
- 1000.10** No merchandise or pictures of the adult businesses' products or entertainment available on the premises shall be displayed on any sign or in any window areas or in any area where they can be viewed from the public right-of-way abutting the premises.

SECTION 1001: "C-1" DISTRICT SIGN REGULATIONS:

In the "C-1" District, the following signs shall be permitted and the following regulations shall apply:

- 1001.1** Any sign permitted in an "R" District.
- 1001.2** Business sign or identification sign, not to exceed two (2) square foot for every one (1) lineal feet of frontage occupied, but not to exceed sixty (60) square feet for any one business.
- 1001.3** One (1) business or identification sign for a group of three or more businesses on one parcel or tract, not to exceed one hundred twenty (120) square feet
- 1001.4** Billboards are specifically prohibited in any "C-1" District
- 1001.5** All signs in any "C-1" District shall be non-flashing and non-animated, if illuminated, they shall utilize reflected or refracted light in such manner as to not detrimentally affect any property in an "R" District.
- 1001.6** Signs not attached to a building shall be set back at least five (5) feet from a lot or street line, or any required buffer area. A freestanding sign shall not exceed twenty (20) feet in height. No sign mounted on a building shall project above the ridge line of a sloping roof nor above the eave line of a flat roof.

SECTION 1002: "C" AND "M" SIGN REGULATIONS:

In all other "C" Districts and "M" Districts, the following signs shall be permitted and the following regulations shall apply:

- 1002.1** Any sign permitted in "R" and "C-1" Districts.
- 1002.2** Business sign or identification sign, not to exceed one (1) square foot for every one (1) lineal foot of frontage occupied, but not to exceed one hundred twenty (120) square feet for any one business.
- 1002.3** One (1) business or identification sign per street for a group of three or more businesses on one parcel or tract, not to exceed two hundred forty (240) square feet per sign.
- 1002.4** Signs not attached to a building shall be set back at least five (5) feet from a lot or street line, or any required buffer area. A free-standing sign shall not exceed forty (40) feet in height. No sign mounted on a building shall project above the ridge line of a sloping roof nor above the eave line of a flat roof.
- 1002.5** All signs in any "C-2", "C-3", or "M" District shall be non-flashing and non-animated if illuminated, they shall utilize reflected or refracted light in such manner as to not detrimentally affect any property in another zoning district.
- 1002.6** Billboard not to exceed three hundred (300) square feet may be permitted by the Municipal Officials, provided that it shall be located so as to:
 - a.** Not be located closer than fifty (50) feet to a public right-of-way.
 - b.** Not project above the ridge line of a sloping roof nor the eave line of a flat roof, if it is attached to a building.

- c. If free-standing, not exceed twenty (20) feet in height.
- d. Be on a parcel or lot not abutting or opposite a frontage in an "R" District, unless the advertising face is not visible from the "R" District.
- e. Be no nearer than three hundred (300) feet to any "R" District if illuminated, unless the advertising face is not visible from the "R" District.
- f. Be no nearer than three hundred (300) feet to any church school, park, playground, or recreational area owned and operated by a public authority.
- g. Be no nearer than four hundred (400) feet to the centerline of any restricted or limited access highway or the access ramps thereto, if the face of the sign is visible therefrom.

SECTION 1003: ADDITIONAL AND GENERAL REGULATIONS:

- 1003.1** Where a sign is permitted by any provision of this Ordinance, it shall be construed to permit a double-faced sign. Each face of a double-faced sign may equal the maximum size permitted for the particular type of sign under this Ordinance.
- 1003.2** A building permit shall be required for any sign or billboard in excess of three (3) square feet.
- 1003.3** The requirements of this Article shall not be held to prohibit the erection of a marquee or canopy provided it bears no sign other than an identification sign which does not project above or below the marquee or canopy nor exceed twelve (12) inches in vertical dimension.

ARTICLE XI OFF-STREET PARKING AND LOADING REQUIREMENTS

SECTION 1100

SECTION 1100: GENERAL PROVISIONS:

1100.1 Procedure:

An application for a building permit for a new or enlarged building, structure, or use, shall include therewith a plot plan drawn to scale and fully dimensioned, showing any off-street parking or loading facilities to be provided in compliance with the requirements of this Ordinance.

1100.2

Extent of Control:

The off-street parking and loading requirements of this ordinance apply as follows:

- a. All buildings and structures erected and all land uses initiated after the effective date of this ordinance shall provide accessory off-street parking or loading facilities as required hereinafter for the use thereof.

- b. When a building or structure undergoes any increase in number of dwelling units, gross floor area, seating capacity, or other unit of measurement specified hereinafter for required off-street parking or loading facilities, and further, when said increase would result in a requirement for additional total off-street parking or loading spaces through application of the provisions of this ordinance parking and loading facilities shall be increased to that the facilities will at least equal or exceed the off-street parking or loading requirements resulting from application of the provisions of this Ordinance to the entire building or structure as modified.

1100.3 Existing Off-Street Parking and Loading Spaces:

Accessory off-street parking and loading spaces in existence on the effective date of this Ordinance may not be reduced in number unless already exceeding the requirements of this Article for equivalent new construction; in which event, said spaces shall not be reduced below the number required herein for such equivalent new construction.

SECTION 1101: DESIGN AND MAINTENANCE:

1101.1 Parking Space-Description:

A required off-street parking space shall be an area of not less than one hundred eighty (80) square feet, nor less than nine (9) feet wide by twenty (20) feet long measured perpendicularly to the sides of the parking space exclusive of access drives or aisles, ramps, columns, and shall comply with the requirements of Ordinance No. 348.

1101.2 Measurement of Space:

When determination of the number of required off-street parking spaces results in a requirement of a fractional space, any fraction up to and including one-half (1/2) may be disregarded, and fractions over one-half (1/2) shall be interpreted as one parking space.

1101.3 Access Parking Facilities:

Access Parking facilities shall be designed with appropriate means of vehicular access to a street or alley in such manner as will least interfere with the movement of traffic. No driveway or curb cut in any district shall exceed thirty (30) feet in width for one-way movement.

1101.4 Signs:

No signs shall be displayed in any parking area within any residential district, except such as may be necessary for the orderly use of the parking facilities. All signs in other parking areas shall conform to this Ordinance.

1101.5 Striping:

All parking spaces in "C" and "M" Districts shall be approved by the Planning Commission.

1101.6 Required Setbacks:

No parking space or portion thereof established on a lot shall be located within a required front yard except in "C" and "M" Districts, where off-street parking areas may be installed and maintained, in the required front yard, provided such parking areas do not occupy the first five (5) feet of front yard nearest the street or alley.

- 1101.7 Surfacing:**
All open off-street parking areas shall be in accordance with Ordinance No. 348.
- 1101.8 Lighting:**
Any lighting used to illuminate an off-street parking area shall be in accordance with Ordinance No. 348.
- 1101.9 Storm Water:**
In addition to Ordinance No. 348, adequate storm water drainage facilities shall be installed in order to insure that storm water does not flow onto abutting property or abutting sidewalks in such a way or quantity that pedestrians using the sidewalk would be detrimentally affected or inconvenienced. The Township Engineer shall approve all such facilities.
- 1101.10 Walls or Planting Strip:**
See Section 800 of this Ordinance, and Ordinance No. 348.

SECTION 1102: SCHEDULE OF OFF-STREET PARKING REQUIREMENTS:

- 1102.1 One and two-family dwellings:**
Two parking spaces for each family dwelling unit.
- 1102.2 Three or more family dwellings:**
Two parking spaces for each family dwelling unit.
- 1102.3 Bowling alleys, recreation centers, swimming pools, skating rinks, outdoor commercial recreation enterprises and other recreation and amusement facilities:**
One parking space for every three (3) customers computed on the basis of maximum servicing capacity at any one time plus one (1) additional space for every two (2) persons regularly employed during peak shift on the premises.
- 1102.4 Club houses and meeting places of veterans, business, civic, fraternal, labor and similar organizations:**
One (1) parking space for every fifty (50) square feet of aggregate floor area in the auditorium, assembly hall, and dining rooms of such building plus one (1) additional space for every two (2) persons regularly employed during peak shift on the premises.
- 1102.5 Dormitories, fraternity houses, and sorority houses:**
One (1) parking space for every two (2) beds occupied at a maximum capacity. This requirement is in addition to the parking space requirements for educational establishments set forth elsewhere herein.
- 1102.6 Drive-in facilities:**
Five (5) per one hundred (100) square feet floor space.
- 1102.7 Funeral homes and undertaking establishments:**
Parking or storage space for all vehicles used directly in the conduct of the business plus one (1) parking space for every two (2) persons regularly employed on the premises during peak shift and one (1) space for every six (6) seats in the establishment.

- 1102.8** Hospital:
One (1) parking space for each four (4) beds intended for patients excluding bassinets, plus one (1) per doctor, plus one (1) per two (2) employees on peak shift, plus one (1) per hospital vehicle.
- 1102.9** Indoor Retail Businesses:
Parking or storage space for all vehicles used directly in the conduct of such business plus one (1) parking space for each one hundred twenty-five (125) square feet of sales area.
- 1102.10** Industrial plants and facilities:
Parking or storage space for all vehicles used directly in the conduct of such industrial use plus one (1) parking space for every three (3) employees on the premises at maximum employment on the peak shift.
- 1102.11** Junior and Senior high schools:
One (1) parking space for every six (6) seats available at maximum capacity in the assembly hall, auditorium, stadium or gymnasium of greatest capacity on the school grounds or campus. If the school has no assembly hall, auditorium, stadium, or gymnasium, one (1) parking space shall be provided for each person regularly employed at such school plus two (2) additional spaces for each classroom.
- 1102.12** Libraries, museums, post-offices and similar establishments:
Parking or storage space for all vehicles used directly in the operation of such establishment plus one (1) parking space for each two hundred fifty (250) square feet of total floor area.
- 1102.13** Medical and dental clinics:
Three (3) parking spaces for each doctor plus one (1) additional space for every two (2) regular employees.
- 1102.14** Nursing Homes:
One (1) parking space for every two (2) beds occupied at maximum capacity. This requirement is in addition to the parking space requirements for hospitals set forth herein.
- 1102.15** Offices:
One (1) parking space for every two hundred (200) square feet of office space.
- 1102.16** Outdoor Retail Businesses:
Parking or storage space for all vehicles used directly in the conduct of such business plus two (2) parking spaces for each person employed on the premises based on maximum seasonal employment plus one (1) parking space for every five hundred (500) square feet of lot area used for business purposes.
- 1102.17** Public and private elementary schools:
One (1) parking space for each person regularly employed at such school plus one (1) additional space for each classroom.
- 1102.18** Public garages:
Indoor or outdoor parking or storage space for all vehicles used directly in the conduct of such business plus three (3) parking spaces for each person regularly employed on the premises.

- 1102.19** Repair shops, plumbing shops, electrical shops, roofing shops, and other service establishments:
Parking or storage space for all vehicles used directly in the conduct of the business plus two (2) parking spaces for each person regularly employed on the premises.
- 1102.20** Restaurants, indoor, and other eating and drinking establishments:
One (1) parking space for each table or booth plus one (1) parking space for every two stools at bar or counter, plus one (1) parking space for every two (2) employees on peak shift.
- 1102.21** Service Stations:
Parking or storage space for all vehicles used directly in the conduct of the business plus one (1) parking space for each gas pump, three (3) spaces for each grease rack or similar facility, and one (1) space for every two (2) persons employed on the premises at maximum employment on a single shift.
- 1102.22** Theaters, auditoriums, churches, stadiums, and other places of public assembly:
One (1) parking space for every six (6) seats available at maximum capacity.
- 1102.23** Motels and hotels:
One (1) parking space each sleeping room offered for tourist accommodation plus one (1) space for each dwelling unit on the premises plus one (1) additional space for every two (2) persons regularly employed on the premises during peak shift.
- 1102.24** Transportation terminals:
One (1) parking space for every one hundred (100) square feet of waiting room plus one additional space for every two (2) persons regularly employed on the premises during peak shift.
- 1102.25** Universities, colleges, academies, and similar institutions of higher learning:
One (1) parking space for every four (4) seats occupied at maximum capacity in the assembly hall, auditorium, stadium, or gymnasium of greatest capacity on the campus. If the institution has no assembly hall, auditorium, stadium, or gymnasium, one (1) parking space shall be provided for each person regularly employed at such institution plus four (4) additional spaces for each classroom.
- 1102.26** Warehouses, freight, terminals and trucking terminals:
Parking or storage space for all vehicles used directly in the conduct of such business plus two (2) parking spaces for each person regularly employed on the premises during peak shift.
- 1102.27** Group residence facility and personal care home:
On-site parking facilities shall be provided at the ratio of one stall for every two full-time staff members and an additional stall for every two noon-staff residents who are eligible and are permitted by sponsor to operate a vehicle.
- 1102.28** Adult Businesses:
Off street parking facilities shall be provided for adult businesses as follows:

- (i) Adult arcade, adult bookstore, adult video store, escort agency, nude model studio and sexual encounter center:
Parking or storage space for all vehicles used directly in the conduct of such business, plus one (1) parking space for each one hundred twenty-five (125) square feet of total floor area of the premises, plus one (1) parking space for every two (2) persons regularly employed during peak shift.
- (ii) Adult cabaret: One (1) parking space for each table or booth, plus one (1) parking space for every two (2) persons regularly employed during peak shift.
- (iii) Adult motel: One (1) parking space for each sleeping room offered for clientele accommodation plus one (1) parking space for each dwelling unit on the premises, plus one (1) parking space for every two (2) persons regularly employed on the premises during peak shift.
- (iv) Adult motion picture theater and adult theater: One (1) parking space for every four (4) seats available at maximum capacity, plus one (1) parking space for every two (2) persons regularly employed on the premises during peak shift.

SECTION 1103: LOCATION OF PARKING AREAS:

Off-street automobile parking facilities shall be located hereinafter specified; where distance is specified such distance shall be walking distance measured from the nearest point of the parking area to the nearest entrance of the building that said parking area is required to serve.

1103.1 For one and two-family dwellings:

On the same lot with the building they are required to serve.

1103.2 For three and four-family dwellings not over two stories in height:

On the same lot or parcel of land as the building they are required to serve. For the purpose of this requirement, a group of such uses constructed and maintained under a single ownership or management shall be assured to be on a single lot or parcel of land.

1103.3 For clubs, hospitals, sanitariums, orphanages, homes for the aged, convalescent homes and for other similar uses:

On the same lot or parcel of land as the main building or buildings being served, or upon properties contiguous to the zoning lot upon which to located the building or buildings they are intended to serve.

1103.4 For multiple-family dwellings containing more than four dwelling units and all other uses:

On the same lot or parcel of land as the building they are required to service or on a separate lot or parcel of land not more than three hundred (300) feet from the nearest entrance to the main use being served, provided the lot or parcel of land selected for the parking facilities is located on an "R-3", "C", or "M-1" District.

- 1103.5** Notwithstanding paragraphs 1103.1 - 1103.4 above, no parking area accessory to a "C" or "M-1" use shall be located in an "R" District.

SECTION 1104: ADDITIONAL REGULATIONS - PARKING:

Nothing contained herein should be seen to limit any other provisions of this ordinance, including specifically section 406.

1104.1 Use of Off-Street Parking Facilities

Off-street parking facilities, accessory to residential use and development in any residential district in accordance with the requirements of this Article, shall be used solely for the parking of passenger automobiles, with the exception of not more than one cargo van, which may bear commercial identification, and which shall not include any form of "box truck" or "box van". Any such vehicle must be strictly job-related and used exclusively by a person residing at the address where such vehicle is parked. The vehicle must be parked off of the street and in the driveway of the property. Alternatively, and in lieu of but not in addition to any such cargo van, such residential may have a pick-up truck bearing commercial identification, or a dump truck not to exceed a GVWR Class 1 Truck as described in definitions.

1104.2 Joint Parking Facilities

Off-street facilities for different buildings, structures, or uses, or for mixed uses, may be provided collectively in any zoning district in which separate off-street parking facilities for each constituent use are permitted provided that the total number of spaces requirements for each use of which normal hours of operation coincide and not more than three hundred (300) feet from and contiguous to the lot on which the main building is located. In any case, where the required parking spaces are not located on the same lot with the building or use served, or where such spaces are collectively or jointly provided and used, a written agreement thereto assuring their retention for such purposes shall be properly drawn and executed by the parties concerned approved as to form and execution by the Municipal Solicitor and shall be filed with the application for a building permit.

1104.3 Control of Off-Site Facilities:

When required accessory off-street parking facilities are provided elsewhere than on the lot on which the principal use is located, they shall be in the same possession either by deed or long-term lease as the property occupied by such principal use and the owner shall be bound by covenants of record filed in the office of the Municipal Secretary requiring the owner and his or her heirs and assigns to maintain the required number of off-street parking spaces during the existence of said principal use.

1104.4 Non-residential Parking in Residential Districts:

Accessory off-street parking facilities serving non-residential uses of property is prohibited in an "R" District.

SECTION 1105: DESIGN MAINTENANCE AND SCHEDULE OF OFF-STREET LOADING SPACE:

1105.1 Design:

- a. Loading Space: - Description:** An off-street loading space shall be a hard-surfaced area of land, open or enclosed, other than a street or public way, used principally for the standing, loading or unloading of motor trucks, tractors and trailers so as to avoid undue interference with the public use of streets and alleys. A required loading space shall not be less than twelve (12) feet in width, fourteen (14) feet in height and of adequate length to suit the specific use exclusive of access aisles and maneuvering space, except as otherwise specifically dimensioned herein.
- b. Location:** No permitted or required loading space shall be closer than seventy-five (75) feet to any property in a residential district, unless completely enclosed by building walls or an ornamental fence or wall, or any combination thereof not less than six (6) feet in height. No permitted or required loading space shall be located within fifty (50) feet of the nearest point of intersection of any two streets. Loading space open to the sky may be located in any required yards.
- c. Measurement of Spaces:** When determination of the number of required off-street loading spaces results in a requirement of a fractional space any fraction up to and including one-half ($1/2$) may be disregarded, and fractions over one-half ($1/2$) shall be interpreted as one loading space.
- d. Surfacing:** All open off-street loading berths shall be improved with a compacted base, surfaced with all-weather dustless material, of adequate thickness to support the weight of a fully-loaded vehicle.

1105.2 Loading and Unloading Space:

Every building or structure used for business, trade, or industry shall provide space as herein indicated for the loading and unloading of vehicles off the street or public alley. Such space shall have access to a public alley, or, if there is no alley, to a street. Off-street loading and unloading space shall be in addition to and not considered as meeting a part of the requirements for off-street parking space. Off-street loading and unloading space shall not be used or designed, intended, or constructed to be used in a manner to obstruct or interfere with the free use of any street, alley, or adjoining property. The following off-street loading and unloading space requirements for specific requirements for specific uses shall be provided:

- a. Multi-story, Multiple-family dwellings:** One (1) off-street loading and unloading space at least ten (10) feet wide for every three thousand (3,000) square feet of total floor area.
- b. Industrial plants:** One (1) off-street loading and unloading space at least twelve (12) feet by fifty (50) feet for every ten thousand (10,000) square feet of total floor area.
- c. Warehouses and wholesale storage facilities:** One (1) off-street loading and unloading space at least twelve (12) feet by fifty (50) feet for every five thousand (5,000) square feet of total floor area.

ARTICLE XII
ZONING HEARING BOARD
SECTION 1200
POWERS

SECTION 1200: POWERS

1200.1 The Zoning Hearing Board

Created and existing pursuant to Ordinance No 126, shall, in addition to the duties and authority vested in them by that Ordinance and the Pennsylvania Municipal Planning Code, have the authority to grant specific exceptions and perform other duties as provided herein:

1200.2 Special Exceptions

To hear and decide the following special exceptions to the terms of this Ordinance and to authorize a permit:

A. In any district, for:

- (1) A temporary structure and use in connection with an authorized use, provided
 - a.** The structure shall be complete in itself and not a part of a future building, without basement, and intended only for temporary storage of materials and/or tools, or as a temporary construction or sales office and not for use as a dwelling or garage. The use shall be construed to include construction trailers, limited to the aforesaid storage or office uses.
 - b.** The use shall be purely incidental to the authorized use
 - c.** It shall be demonstrated to the Board that such structure and use are reasonably necessary and that safeguards are established to preserve the amenities of surrounding properties
 - d.** The permit shall be issued for a period not exceeding six (6) months but the period may be extended under like conditions.
- (2) The extension of a non-conforming use within a non-conforming structure, or for the change of such use within a non-conforming structure to a conforming use, provided that in each case:
 - a.** A report and recommendation is requested from the Planning Commission which shall indicate, among other things, whether the effected area is an appropriate one for clearance and redevelopment, renewal or conservation.
 - b.** No structural alterations are made other than those ordered by an authorized public officer to assure the safety of the structure and the occupants thereof, or those provided for under Section below
 - c.** No living-quarter use shall be located in the same story of a building in which an industrial establishment is located, and vice-versa.

- d. All technical advances pertaining to such non-conforming use are utilized, and the time of operation of such use is so scheduled as to minimize the detrimental effect of such use on the adjacent structures and uses.
 - e. The use may be continued only so long as the structure remains.
- (3). The enlargement of a non-conforming commercial or industrial structure other than a sign, and the extension of a non-conforming use throughout said structure provided:
- a. The gross floor area of the enlargement shall not exceed fifty percent (50%) of the gross floor area of the non-conforming structure, or non-conforming portion thereof, on the effective date of this ordinance which later makes such structure or portion thereof, non-conforming.
 - b. It shall be demonstrated to the satisfaction of the Board that such extension or enlargement is reasonably necessary at the concerned location because of normal growth of business.
 - c. All other applicable regulations and requirements of this Ordinance shall be complied with.
 - d. The Board shall impose such conditions and safeguards as it deems necessary in order to protect adjacent conforming uses and structures against the adverse effects of such non-conformity.

ARTICLE XIII

ADMINISTRATION

SECTION 1300

SECTION 1300: BUILDING PERMIT:

- a. No building or structure shall be erected, added to, or structurally altered until a permit therefor has been issued by the Building Inspector. No such building permit shall be issued for any building where said construction, addition, or alteration or use thereof would be in violation of any of the provisions of this Ordinance, except upon written order of the Zoning Hearing Board.
- b. There shall be submitted with all applications for building permits two copies of a layout or plot plan drawn to scale showing actual dimensions of the lot, the exact size and location on the lot of the building and accessory buildings and such other information as may be necessary to determine and provide for the enforcement of this Ordinance.

- c. One copy of such layout or plot plan shall be returned when approved by the Building Inspector, together with such permit to the applicant, and one copy attached to and made a part of the application.
- d. The Building Inspector shall issue a Building Permit only after it has been determined that the proposed construction will be in conformance with all applicable requirements and regulations, and in no event shall any Permit be issued until at least seven (7) days after application has been made in accordance with this Ordinance.

SECTION 1301: CERTIFICATE OF OCCUPANCY:

- a. After completion of a building or structure for which a building permit has been issued and inspection has determined that all requirements of all codes and ordinances of the Municipality have been met, a Certificate of Occupancy shall be issued by the Building Inspector, stating that the building and proposed use thereof comply with the provisions of the ordinance.
- b. No non-conforming use shall be maintained, renewed or changed without a Certificate of Occupancy having been secured from the Building Inspector within one (1) year from the effective date of this Ordinance.
- c. All Certificates of Occupancy shall be applied for prior to the occupancy at any structure. Said Certificate will be issued if the building or use is found to be in accordance with all codes and ordinances.
- d. The Building Inspector shall maintain a record of all Certificates and copies which will be furnished upon request to any person having proprietary or tenancy interest in the building affected.
- e. No permit for excavation for, or the erection or alteration of, or repairs to any building shall be issued until an application has been made for a Certificate of Occupancy.
- f. No changes will be permitted in parking areas or striping of parking areas after an occupancy permit has been issued. Failure to comply will result in revocation of occupancy permit.
- g. Whenever a party or parties seeks to occupy a dwelling or other building as a group residence facility or personal care home, the party or parties shall file a detailed statement of intent describing the proposed use of the dwelling or building, which statement shall detail the proposed number and nature of the anticipated occupants, with the Township Office. A license or certification shall also be obtained from the Commonwealth or County prior to issuance of a certificate of occupancy. If an appropriate licensing or certifying agency does not exist, the applicant shall demonstrate to the Board of Commissioners that the proposal satisfies a demonstrative need and shall be conducted in a responsible manner without detriment to surrounding properties.

The sponsor shall file annually with the Township Building Inspector information indicating that the facility continues to satisfy the conditions of original approval. The sponsoring agencies shall be notified by mail of the annual filing date thirty days prior to such date. Ten days after the filing date, and advertisement shall be placed in a local newspaper for one day, listing those agencies that have applied for recertification or requesting comments from residents in community organizations within thirty days from the date of advertisement. Individuals or organizations wishing to file a complaint shall do so in writing to the Township Building Inspector. Change in sponsorship or any conditions of original approval shall constitute a new use and the full procedure for obtaining a new use shall be exercised.

ARTICLE XIV

ADMINISTRATION, ENFORCEMENT, AMENDMENTS

SECTION 1400

SECTION 1400: PROCEDURES FOR CHANGES AND AMENDMENTS:

The Board of Commissioners may introduce and/or consider amendments to this ordinance and to the Zoning District Map, as proposed by the Board of Commissioners, or by the Planning Commission or by a petition of landowners of property within the township. It is recognized that amendments must be pursuant to and comply with applicable law, including the MPC.

SECTION 1401: PROCEDURE:

Whenever the public necessity, convenience, or general welfare indicates, the Township Commissioners may, by Ordinance, after report thereon by the Planning Commission and subject to the procedure provided in this section, amend, supplement, or change the regulations, district boundaries, or classifications of property, as the same are established by this Ordinance (or may hereafter be made a part thereof). Such ordinances for amendment, supplement, reclassification, or change, may be initiated by request of one (1) or more members of the Township Commissioners, either upon its own initiative or in response to petition as set further herein, or by request from the Township Planning Commission.

SECTION 1402: PETITIONS, REFERRALS, PLANNING COMMISSION ACTION:

1402.1 Petitions.

Petitions for amendments by landowners shall be filed with the Planning Commission at least 45 calendar days prior to the meeting at which the petition is to be heard. In the case of the petition for reclassification of property, the petitioners, upon such filing, shall submit a legal description of the property proposed to be rezoned. All petitions shall include a statement justifying the request and documenting consistency with the Township's Comprehensive Plan and a filing fee, in accordance with the Fee Schedule of the Township.

1402.2 Referral.

Any proposed amendment presented to the Board of Commissioners without written findings and recommendations from the Township Planning Commission and the Allegheny County Department of "Economic Development shall be referred to these agencies for review at least 45 days prior to the public hearing of the Board of Commissioners. The Board of Commissioners shall not hold a public hearing upon such amendments until the required reviews are received or the expiration of 45 days from the date of referral, whichever comes first.

1402.3 Planning Commission Review

The Planning Commission shall make a report and recommendation on each request for zone change (petition or otherwise) within forty five (45) days from the date of said request, setting forth in detail reasons wherein public necessity, convenience, general welfare and the objectives of the overall comprehensive plan do or do not justify the proposed change, and shall forward its findings and recommendations, to the Township Commissioners. At its discretion, the Planning Commission may hold a public hearing before making such report and recommendation.

- A.** It is specifically noted that, should a comprehensive plan be in place, the review period, as provided for under the Municipalities Planning Code, is 45 days.

SECTION 1403: POSTING OF PROPERTY:

If the proposed amendment involves a change to the Zoning District Map, notice of the public hearing shall be conspicuously posted by the Township at points deemed sufficient by the Township along the tract to notify potentially interested citizens at least seven (7) days prior to the date of the public hearing.

1403.1 Mailing of Notices.

In addition to posting the property, if the proposed amendment involves a change to the Zoning District Map, notice of the public hearing shall be mailed and/or sent by electronic transmission by the Township at least thirty (30) days prior to the date of the hearing, by first class mail to the addresses to which real estate tax bills are sent

for all real property located within the area being reezone, as evidenced by tax records within the possession of the Township. The notice shall include the location, date and time of the public hearing. A good faith effort and substantial compliance shall satisfy the requirements of this subsection. This subsection shall not apply when the rezoning constitutes a comprehensive rezoning.

SECTION 1404: PUBLIC NOTICE AND PUBLIC HEARING:

Before acting on a proposed amendment, the Board of Commissioners shall hold a public hearing thereon. Public notice, as defined by this ordinance, shall be given containing a brief summary of the proposed amendment and reference to the place where copies of the same may be examined.

1404.1 Readvertisement.

If after any public hearing is held upon a proposed amendment the amendment is substantially changed or revised to include land not previously affected by the amendment, the Board of Commissioners shall hold another public hearing, pursuant to public notice, before proceeding to vote on the amendment.

SECTION 1405: PUBLICATION, ADVERTISEMENT AND AVAILABILITY:

- (1)** Proposed amendments shall not be enacted unless the Board of Commissioners gives notice of the proposed enactment, including the time and place of the meeting at which passage will be considered, and a reference to the place in the Township where copies of the proposed amendment may be examined without charge or obtained for a charge not greater than the cost thereof.
- (2)** The Board of Commissioners shall publish the proposed amendment once in a newspaper of general circulation in the Township not more than sixty (60) nor less than seven (7) days prior to passage. Publication of the proposed amendment shall include either the full text thereof or the title and a brief summary prepared by the Township Solicitor setting forth all the provisions in reasonable detail. If the full text is not included:
 - (a)** A copy thereof shall be provided to the newspaper at the time public notice is published.
 - (b)** An attested copy of the proposed ordinance shall be filed in the Allegheny County Law Library.
 - (c)** A copy shall be available for inspection at the Township Offices.

SECTION 1406: ACTION:

Within ninety (90) days of the date when the public hearing on the proposed amendment is officially closed, the Board of Commissioners shall vote on the proposed amendment. In the event substantial amendments are made in the proposed amendment, the Board of Commissioners shall readvertise in one newspaper of general circulation in the Township a brief summary of the amendments at least ten (10) days prior to enactment.

SECTION 1407: FILING AMENDMENTS WITH COUNTY PLANNING AGENCY:

Within thirty (30) days after enactment, a copy of the amendment of this ordinance shall be forwarded to the Allegheny County Planning Agency, and any other required agency.

SECTION 1408: LANDOWNER CURATIVE AMENDMENTS:

A curative amendment may be filed by a landowner who desires to challenge, on substantive grounds, the validity of this ordinance or the Zoning District Map or any provision thereof which prohibits or restricts the use or development of land in which he has an interest.

A. Procedure. The landowner may submit a curative amendment to the Board of Commissioners with a written request that his challenge and proposed amendment be heard and decided as provided in the Pennsylvania Municipalities Planning Code, as amended. As with other proposed amendments, the curative amendment shall be referred to the Township Planning Commission and the Allegheny County Department of Economic Development at least thirty (45) days before the hearing is conducted by the Board of Commissioners. Public notice shall be given in accordance with applicable Pennsylvania law.

B. Evaluation of Merits of Curative Amendment. If the Board of Commissioners determines that a validity challenge has merit, the Board of Commissioners may accept a landowner's curative amendment, with or without revision, or may adopt an alternative amendment which will cure the alleged defects. The Board of commissioners shall consider the curative amendments, plans and explanatory material submitted by the landowner and shall also consider:

- (1)** The impact of the proposal upon roads, sewer facilities, water supplies, schools and other public service facilities:
- (2)** If the proposal is for a residential use, the impact of the proposal upon regional housing needs and the effectiveness of the proposal in providing housing units of a type actually available to and affordable by classes of persons otherwise unlawfully

excluded by the challenged provisions of this ordinance or Zoning District Map;

- (3) The suitability of the site for the intensity of the use proposed by the site's soils, slopes, woodlands, wetlands, floodplains, aquifers, natural resources and other natural features;
- (4) The impact of the proposed use on the site's soils, slopes, woodlands, wetlands, floodplains, aquifers, natural resources and other natural features, to which these are protected or destroyed, the tolerance of the resources to development and any adverse environmental impacts; and
- (5) The impact of the proposal on the preservation of agriculture and other land uses which are essential to public health and welfare.

- C. Declaration of Invalidity by Court. If the Township does not accept a landowner's curative amendment brought in accordance with this section and a court subsequently rules the challenge has merit, the court's decision shall not result in a declaration of invalidity for this entire ordinance, but only for those provisions which specifically relate to the landowner's curative amendment challenge.

SECTION 1410: ZONING OFFICER POWER AND DUTIES:

- A. The provisions of this ordinance shall be administered and enforced by a Building Inspector or a Zoning Officer who shall be appointed by the Board of Commissioners. The Zoning Officer shall hold no elective office in the Township. The Building Inspector or Zoning Officer shall meet the qualifications established by the Township and shall be able to demonstrate, to the satisfaction of the Township, a working knowledge of municipal zoning.
- B. The Building Inspector or Zoning Officer shall have all the powers and duties conferred upon him by this ordinance and the Pennsylvania Municipalities Planning Code. The Zoning Officer's duties shall include the following:
- (1) Receive and examine all applications for zoning certificates and certificates of occupancy;
 - (2) Notify applicants of any deficiencies in applications and request additional information.
 - (3) Process applications for zoning certificates and certificates of occupancy for all permitted uses.

- (4)** Receive applications for uses by special exception and variances and forward these applications to the Zoning Hearing Board for action prior to considering issuance of zoning certificates or certificates of occupancy for the proposed use.
- (5)** Receive applications for conditional uses and forward these applications to the Planning Commission and Board of Commissioners for recommendation and action prior to considering issuance of zoning certificates or certificates of occupancy for the proposed use.
- (6)** Receive and process all requests for reasonable accommodation under the Fair Housing Act Amendments and the Americans with Disabilities Act (ADA).
- (7)** Issue permits only where there is compliance with the provisions of this ordinance, with other Township ordinances and the laws of the Commonwealth.
- (8)** Issue denials of zoning certificates or certificates of occupancy and refer any appeal of the denial to the Zoning Hearing Board for action thereon.
- (9)** Conduct inspections and surveys to determine compliance or noncompliance with this ordinance.
- (10)** Issue notices of violation in accordance with the requirements of this ordinance.
- (11)** With the approval of the Board of Commissioners, or when directed by the Board of Commissioners, institute in the name of the Township any appropriate action or proceeding to prevent unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use; to restrain, correct or abate such violation so as to prevent the occupancy or use of any building, structure or land; or to prevent any illegal act, conduct, business or use in or about such premises.
- (12)** Revoke any order or permit issued under a mistake of fact or contrary to the law or the provisions of this ordinance.
- (13)** Record and file all applications for zoning certificates and certificates of occupancy with accompanying plans and documents, and maintain those files as public records.
- (14)** Maintain the official Zoning District Map for the Township.
- (15)** Register nonconforming uses, structures and lots in accordance with this ordinance.

- (16) Submit a monthly written report to the Board of Commissioners of all zoning certificates, certificates of occupancy, sign permits, temporary use permits and all notices of violation and orders issues.
- (17) Meet with the Planning Commission no less frequently than quarterly to advise the Commission regarding potential developments and to discuss any problems in administering this ordinance and/or recommend amendments to this ordinance.

SECTION 1411: ENFORCEMENT OF THIS ORDINANCE:

1411.1 Violations. Failure to comply with any provisions of this ordinance; failure to secure zoning approval or certificate of occupancy prior to the erection, construction, extension, structural alteration, addition or occupancy of a building or structure; or failure to secure a certificate of occupancy for the use or change of use or occupancy of structures or land shall be a violation of this ordinance.

1411.2 Enforcement notice. The enforcement notice shall contain the following information:

- (1) The name of the owner of record and any other person against whom the Township intends to take action.
- (2) The location of the property in violation.
- (3) The specific violation with a description of the requirements which have not been met, citing in each instance the applicable provisions of this ordinance.
- (4) The date before which steps for compliance must be commenced and the date before which the steps must be completed.
- (5) That the recipient of the notice has the right to appeal to the zoning Hearing Board within a prescribed period of time in accordance with the procedures set forth in this ordinance.
- (6) That failure to comply with the notice within the time specified, unless extended by appeal to the Zoning Hearing Board, constitutes a violation, with possible sanctions clearly described.

1411.3 Causes of Action. In case any building or structure is erected, constructed, reconstructed, structurally altered, repaired, converted or maintained or any building or structure or land is used in violation of this ordinance, the Board of Commissioners or, with approval of the Board of Commissioners, the Zoning Officer or other proper official, in addition to other remedies, may institute in the name of the Township any appropriate action or proceeding to: prevent, restrain, correct or abate such unlawful erection, construction, reconstruction, structural alteration, repair, conversion, maintenance or use; to prevent the occupancy of

any building, structure or land; or to prevent any illegal act, conduct, business or use which constitutes a violation. Any person, firm or corporation violating any of the provisions of this Ordinance shall be subject to, fines not to exceed five hundred dollars (\$500.00) for any one (1) offense, recoverable with costs, and /or other relief. Each day that a violation is permitted to exist shall constitute a separate offense. Proceedings against violators shall be instituted by the Building Inspector upon his own or upon direction of the Township Commissioners, the Planning Commission or the Zoning Hearing Board. It shall be the duty of the Zoning Officer or Building Inspector to investigate any complaint, filed in writing by a citizen or any public or private agency or corporation touching violations of this Ordinance, and to act thereon if the facts so warrant.

1411.4 Any person, partnership or corporation who or which has violated or permitted the violation of the provisions of this ordinance shall, upon being found liable therefore in a civil enforcement proceeding commenced by the Township, pay a judgment of not more than \$500 plus all Court costs, including reasonable attorney fees incurred by the Township as a result thereof. No judgment shall commence or be imposed, levied or be 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 Township may enforce the judgment pursuant to the applicable rules of civil procedure.

1411.5 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 this 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 this ordinance shall be paid over to the Township.

1411.6 Nothing contained in this subsection shall be construed or interpreted to grant to any person or entity, other than the Township, the right to commence any action for enforcement pursuant to this subsection.

SECTION 1420: COORDINATION WITH OTHER REQUIREMENTS AND PERMITS:

In all cases, any application for a permit of any of the types described in this ordinance, shall be decided not only on the basis of compliance with this Zoning Ordinance, but also on the basis of compliance with all other applicable Township ordinances and all other applicable rules and regulations of the various Township authorities and agencies which might be concerned, as well as state and federal requirements and permits.

SECTION 1422: REASONABLE ACCOMMODATION AND CRITERIA

- 1422.1** Persons with a claim for a reasonable accommodation under the Fair Housing Amendments Act or the Americans with Disabilities Act shall submit their request in writing to the Zoning Officer on an application form which shall require that the following information, and such other information as may be reasonably needed to process the request, be provided:
- a.** Specific citation of the Zoning Ordinance provision from which reasonable accommodation is requested;
 - b.** The name and address of the applicants;
 - c.** The specific description of the reasonable accommodation sought and the particulars, including exact dimensions of any proposed structural or locational accommodation;
 - d.** The condition of the applicants for which reasonable accommodation is sought;
 - e.** A description of the hardship, if any, that the applicants will incur absent provision of the reasonable accommodation requested;
 - f.** A description of any alternative methods of relieving the claimed hardship that have been considered and the reason, if any, why applicants have rejected such alternatives;
 - g.** A statement describing why the requested accommodation is necessary to afford the applicants an opportunity equal to a nonhandicapped or nondisabled person to use and enjoy the property in question;
 - h.** A description of the manner in which the accommodation, if granted, will be terminated or removed if no longer required to afford equal housing opportunity to handicapped or disabled persons; and
 - i.** A statement of any facts indicating whether or not nonhandicapped or nondisabled persons would be permitted to utilize the property in question in a manner similar to that sought by applicants.
- 1422.2** The Zoning Officer may hold any meetings and/or hearings necessary in his discretion to elicit information or argument pertinent to the request for accommodation.
- 1422.3** The Zoning Officer's decision shall be in writing and shall state the reasons for the decision.
- 1422.4** The Zoning Officer shall issue his written decision to the applicants and the Township within 30 days of filing of the request for accommodation.
- 1422.5** A request for reasonable accommodation should be directed in the first instance to the Zoning Officer. In considering a request for reasonable accommodation, the Zoning Officer shall, with the advice and counsel of the Township Solicitor, apply the following criteria:

- a. Whether the applicants are handicapped or disabled within the meaning of the Federal Fair Housing Act Amendments or the Americans with Disabilities Act;
- b. The degree to which the accommodation sought is related to the handicap or disability of the applicants;
- c. A description of the hardship, if any, that the applicants will incur absent provision of the reasonable accommodation requested;
- d. The extent to which the requested accommodation is necessary to afford the applicants an opportunity equal to a nonhandicapped or nondisabled person to use and enjoy the dwelling in question;
- e. The extent to which the proposed accommodation may impact other property owners in the immediate vicinity;
- f. The extent to which the requested accommodation may be consistent with or contrary to the zoning purposes promoted by the Zoning Ordinance, the Comprehensive Plan and the community development objectives set forth in the Zoning Ordinance;
- g. The extent to which the requested accommodation would impose financial and administrative burdens upon the Township;
- h. The extent to which the requested accommodation would impose an undue hardship upon the Township;
- i. The extent to which the requested accommodation would require a fundamental alteration in the nature of the Township's regulatory policies, objectives and regulations;
- j. The extent to which the requested accommodation would result in a subsidy, privilege or benefit not available to non-handicapped or nondisabled persons;
- k. The permanency of the requested accommodation and the conditions under which such accommodation will be removed, terminated or discontinued when no longer needed to provide handicapped or disabled persons with equal opportunity to use and enjoy the property in question; and
- l. The extent to which the requested accommodation will increase the value of the property during and after its occupancy by applicants.

SECTION 1430: ZONING CERTIFICATE REQUIRED

SECTION 1431: WHEN REQUIRED:

- 1431.1** No land use may be established or changed; no structure or building may be erected, constructed, reconstructed, structurally altered,

razed or removed; and no building or structure may be used or occupied or the use changed until a Zoning Certificate has been obtained from the Zoning Officer.

- 1431.2** In the instances where a Building Permit is required, a Zoning Certificate shall be prerequisite to the Building Permit. In those instances where no Building Permit is required, an application for a Certificate of Occupancy for a new or changed use of land or structure shall include an application for a Zoning Certificate.
- 1431.3** In the case of a conditional use or use by special exception, the Zoning Officer shall refer the application to the Planning Commission and Board of Commissioners or to the Zoning Hearing Board, whichever is applicable, for a decision granting zoning approval, prior to issuing a Zoning Certificate. Whenever the approval of a conditional use or use by special exception includes conditions attached to the approval, said conditions shall be incorporated into the Zoning Certificate.
- 1431.4** In the case of a permitted use, the Zoning Officer shall not issue the Zoning Certificate unless and until all applicable regulations of this ordinance have been met and, in the case of a use for which land development plan approval is required by the Township Subdivision and Land Development Ordinance, unless and until Final Approval of the Land Development Plan has been granted by the Board of Commissioners. Whenever final approval of a land development plan is subject to conditions, those conditions shall be incorporated into the Zoning Certificate.

SECTION 1432: APPLICATION FOR ZONING CERTIFICATE:

- 1432.1** All applications for Zoning Certificates shall be made in writing by the owner or his authorized agency on a form furnished by the Township and shall include a statement of the intended use of the building or lot and a property survey both prepared in duplicate and drawn to scale; and copies of all required county, state and/or federal permits as approved by the appropriate agency and shall include the following information at a minimum:
- a.** All applications for a Zoning Certificate shall be accompanied by two copies of a property survey, drawn to scale, showing: key location map; graphic scale; North arrow; closest intersecting public street; exact dimensions and total acreage of the lot(s) or parcel; zoning of lot(s) and zoning of all abutting properties; exact location and exterior dimensions of the existing and proposed

building(s) or other structure(s); exact location and area of all existing and proposed water courses; drainage ways, rights-of-way and easements; exact location of existing and proposed driveways, streets within, adjacent and opposite to the lot(s) or parcel; exact location of existing and proposed off-street parking, loading and pedestrian movement facilities; exact dimensions of front, side and rear yards for all principal and accessory uses; and any other additional data as may be deemed necessary and be requested by the Zoning Officer to determine compliance with this ordinance.

- b. The Zoning Officer may require an applicant to furnish a survey of the property by a Pennsylvania Registered Land Surveyor when complete and accurate information is not readily available from existing records.
- c. The Zoning Officer may require additional data to determine compliance with this ordinance.

1432.2 It shall be the duty of the Zoning Officer to review the application to determine if all necessary information has been submitted and request more information of the applicant or officially receive the application for review by the appropriate Township agencies.

1432.3 Unless such requirement is waived by the Board of Commissioners, all applications for a Zoning Certificate shall be accompanied by a fee, to be based upon the fee schedule of the Township, as provided for in Section 2109 of this ordinance.

SECTION 1433: ZONING CERTIFICATE:

Upon approval of the application for a Zoning Certificate, one copy of the approved Certificate shall be returned to the applicant. One copy of such Certificate shall be kept on file in the Township Office.

SECTION 1434: DENIAL OF ZONING CERTIFICATE:

In the event of a denial, the Zoning Officer shall state in writing the reason(s) for such denial including the citation of the specific section(s) of this or other pertinent ordinances that have not been met.

SECTION 1435: INSPECTION:

The Zoning Officer, or his duly appointed representative, may make inspections on the property for which an application for a Zoning Certificate has been submitted or issued.

SECTION 1436: FAILURE TO OBTAIN ZONING CERTIFICATE:

Failure to obtain a Zoning Certificate shall be a violation of this ordinance and shall be subject to the enforcement remedies of this ordinance.

SECTION 1440: EVIDENCE OF ZONING COMPLIANCE FOR CONSTRUCTION:

When a zoning certificate is prerequisite to obtaining a building permit, once the construction is underway, a foundation survey shall be required to verify compliance with the approved Zoning Certificate.

- A.** Within 72 hours of forming the footer for the foundation of a proposed structure, the person to whom the zoning certificate has been issued shall notify the Zoning Officer and shall provide a certification of the location of the foundation. Within three business days, the Zoning Officer shall notify the holder of the zoning certificate whether the foundation survey is in compliance with this chapter. Failure of the Zoning Officer to act within the time specified shall result in deemed approval of the footer location. If the permittee proceeds with construction during the three-day review period, work shall be at the permittee's own risk.
- B.** Failure to submit the required foundation certification shall be grounds for the Zoning Officer to issue a cease and desist order.
- C.** If the Zoning Officer finds that the foundation certification is not in compliance with the provisions of this chapter and the approved zoning certificate, the Zoning Officer shall require the removal of the foundation, or the portion thereof that is not in compliance, by issuing a notice of violation in accordance with the procedures specified in this ordinance.

SECTION 1445: CERTIFICATE OF OCCUPANCY:

A certificate of occupancy indicating compliance with the provisions of this ordinance shall be required prior to: occupancy of any structure following completion of construction, reconstruction or enlargement of the structure governed by an approved building permit; a change in the use of

an existing building, structure, water body or land area except for the same use operated by a different owner; a change of a nonconforming use, building or structure authorized by the Zoning Hearing Board.

- A.** Application for permit. All requests for a certificate of occupancy shall be made, in writing, on a form furnished by the Township, completed by the owner or other authorized agent, and shall include a statement of the type of proposed use intended for the building, land or water body.

 - (1)** A certificate of occupancy for a change of use in an existing building shall be applied for and shall be issued before the new use is established.
 - (2)** It shall be the duty of the Zoning Officer to review the application to determine if all necessary information has been submitted, to request more information of the applicant or officially receive the application.
 - (3)** Unless such requirement is waived by the Board of Commissioners, all applications for a certificate of occupancy shall be accompanied by a fee to be based upon the Fee Schedule of the Township, as provided for in this ordinance.
- B.** Issuance of certificate of occupancy.

 - (1)** Applications for a certificate of occupancy shall be reviewed by the Zoning Officer. The Zoning Officer shall issue the findings or approval of the application.
 - (2)** Upon approval of the request for a certificate of occupancy, one copy of the certificate shall be given to the applicant and one copy of the certificate shall be kept on file in the Township Office.
- C.** Denial of certificate of occupancy. In the event of denial, the Zoning Officer shall forward to the applicant a written statement containing the reason(s) for such denial and shall cite the specific requirements of this ordinance that have not been met.
- D.** Time limitations. A certificate of occupancy shall remain valid for as long as the structure or building is used in the manner the certificate has been issued for.
- E.** Temporary certificate of occupancy. A temporary certificate of occupancy may be issued by the Zoning Officer for a period not exceeding six months to permit partial occupancy of a building while work is being completed, provided such temporary certificate of occupancy may require such conditions and safeguards as may be warranted, including posting of surety, to protect the health and safety of the occupants and the public and guarantee compliance with the provisions of this ordinance or any conditions attached to the zoning certificate.
- F.** Failure to obtain a certificate of occupancy. Failure to obtain a certificate of occupancy shall be a violation of this ordinance and shall be subject to enforcement remedies as provided in this ordinance.

SECTION 1446: TEMPORARY USE PERMITS:

A temporary use permit shall be required prior to the initiation of a permitted temporary use of a structure, land or water body and shall meet the following requirements.

1446.1 Approvals required.

- (1)** Temporary uses such as festivals, fairs or other similar activities sponsored by a governmental, local nonprofit, community or charitable organization shall be exempt from obtaining approval of a use by special exception from the Zoning Hearing Board, provided the Zoning Officer determines compliance with the standards of this ordinance as a condition precedent to obtaining the temporary use permit under this section.
- (2)** Sidewalk sales, carload sales and other special promotions conducted on the site of an existing retail business with the permission of the landowner for a period of not more than 72 consecutive hours shall be exempt from obtaining a temporary use permit. Any such activity which exceeds 72 consecutive hours in duration shall be subject to approval by the Zoning Officer of a temporary use permit under this section, provided the Zoning Officer determines compliance with all applicable standards of this ordinance.
- (3)** Temporary construction trailers, model homes or sales offices shall be subject to conditional use approval by the Board of Commissioners in accordance with the criteria of this ordinance as a condition precedent to obtaining a temporary use permit by the Zoning Officer under this ordinance.
- (4)** All other temporary uses shall be subject to approval by the Zoning Hearing Board of a use by special exception in accordance with the criteria of this ordinance as a condition precedent to obtaining a temporary use permit from the Zoning Officer under this section.

1446.2 Application for permit. All requests for temporary use permits shall be made in writing on a form furnished by the Township and shall include a full description of the type of use for which such permit is being sought and the dates during which this use shall be in existence.

- (1)** It shall be the duty of the Zoning Officer to review the application for compliance, request more information of the applicant or officially receive the application.
- (2)** Unless such requirement is waived by the Board of Commissioners, all applications for a temporary use permit shall be accompanied by a fee, to

be based upon the Fee Schedule adopted by the Township, as provided for in this ordinance.

- (3) Any temporary use permit that requires approval of a use by special exception by the Zoning Hearing Board in accordance with the express standards and criteria of this ordinance shall not be issued until the favorable decision of the Zoning Hearing Board is received.
- (4) Any temporary use permit that requires approval of a conditional use by the Board of Commissioners in accordance with the express standards and criteria of this ordinance shall not be issued until the favorable decision of the Board of Commissioners is received.

1446.3 Issuance of permit.

- (1) Applications for a temporary use permit shall be reviewed by the Zoning Officer. The Zoning Officer shall issue approval or denial of the temporary use permit.
- (2) Upon approval of the request for a temporary use permit, one copy of the permit shall be given to the applicant. The copy of the permit must be publicly displayed at the site of the temporary use during the existence of the use. One copy of the permit shall be kept on file in the Township Office.

1446.4 Denial of permit. In the event of denial, the Zoning Officer shall forward to the applicant a written statement containing the reason(s) for such denial and shall cite the specific requirements of this ordinance that have not been met.

1446.5 Time limitations. Temporary use permits are valid for the time period(s) specified in this ordinance or in the decision granting approval of the conditional use or use by special exception.

1446.6 Inspections.

- (1) The Zoning Officer, or his fully appointed representative, may make an inspection of the property on which such temporary use is to be located to determine the suitability of the site for the use. This inspection shall be made prior to issuing a permit, prior to initiation of the use or, in the event a renewal of the permit is requested, during the time the use is in existence.
- (2) In the event of such inspection, a record shall be made indicating the time and date of inspection, the findings of the Zoning Officer in regard to conformance with this ordinance and other Township Ordinances, and the opinion of the Zoning Officer in regard to the suitability of the site for this use.

SECTION 1447: FAILURE TO OBTAIN A TEMPORARY USE PERMIT:

Failure to obtain a temporary use permit shall be a violation of this ordinance and shall be subject to enforcement remedies as provided in this ordinance.

SECTION 1450: SIGN PERMITS:

A sign permit shall be required prior to the erection or structural alteration of any sign, either permanent or temporary, except for those signs exempted elsewhere under this ordinance. It shall be unlawful for any person to commence work for the erection or alteration of any sign until a permit has been issued.

SECTION 1451: APPLICATION FOR PERMIT:

All requests for sign permits shall be made in writing on a form furnished by the Township and shall include a full description of the proposed sign, a description of the lot upon which such proposed sign is to be located and a description of any other existing signs on the same lot.

- (1)** All applications for a sign permit shall be accompanied by two copies of a drawing showing: width of sign; height of sign; gross surface area of sign; total height of sign above adjacent ground level; clearance between bottommost part of sign and ground level; distance between front edge of sign and adjacent street right-of-way; and distance between front edge of sign and inside edge of adjacent sidewalk, if applicable.
- (2)** It shall be the duty of the Zoning Officer to review the application for completeness and compliance, request more information of the applicant or officially receive the application for the sign.
- (3)** All applications for a sign permit shall be accompanied by a fee, to be based upon the Fee Schedule of the Township, unless such requirement is waived by the Board of Commissioners.

1451.1 Issuance of permit.

- (1)** Applications for a sign permit shall be reviewed by the Zoning Officer. The Zoning Officer shall issue the findings or approval of the application.
- (2)** Upon approval of the sign permit, one copy of the permit shall be given to the applicant and one copy of the permit shall be kept on file in the Township Office.

1451.2 Denial of permit. In the event of denial, the Zoning Officer shall forward to the applicant a written statement containing the reason(s) for such denial and shall cite the specific requirements of this ordinance that have not been met.

1451.3 Inspections. For a sign permit, the Zoning Officer or his duly appointed representative may make the following inspections on property which the permanent sign is to be located: prior to installation of the sign, following installation of the sign, occasionally to determine continued maintenance and compliance with this ordinance, in response to any written complaint, whenever the sign is proposed to be replaced or modified and upon cessation of the use for which the sign was erected.

1451.4 Failure to obtain a sign permit. Failure to obtain a sign permit shall be a violation of this ordinance and shall be subject to enforcement remedies as provided in this ordinance.

SECTION 1470: ENFORCEMENT AND REMEDIES:

- a.** If it appears to the township that a violation of any zoning ordinance enacted under this act or prior enabling laws has occurred, the township shall initiate enforcement proceedings by sending an enforcement notice as provided in this section.
- b.** The enforcement notice shall be sent 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 the owner of record.
- c.** An enforcement notice shall state at least the following:
 - (1)** The name of the owner of record and any other person against whom the municipality intends to take action.
 - (2)** The location of the property in violation.
 - (3)** The specific violation with a description of the requirements which have not been met, citing in each instance the applicable provisions of the ordinance.
 - (4)** The date before which the steps for compliance must be commenced and the date before which the steps must be completed.
 - (5)** That the recipient of the notice has the right to appeal to the zoning hearing board within a prescribed period of time in accordance with procedures set forth in the ordinance.
 - (6)** That failure to comply with the notice within the time specified, unless extended by appeal to the zoning hearing board, constitutes a violation, with possible sanctions clearly described.
- d.** In any appeal of an enforcement notice to the zoning hearing board the township shall have the responsibility of presenting its evidence first.
- e.** Any filing fees paid by a party to appeal an enforcement notice to the zoning hearing board shall be returned to the appealing party by the municipality if the zoning hearing board, or any court in a subsequent appeal, rules in the appealing party's favor.

- 1470.1** 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 any ordinance enacted under this act or prior enabling laws, the governing body or, with the approval of the governing body, an officer of the municipality, 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, and, 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 municipality at least 30 days prior to the time the action is begun by serving a copy of the complaint on the governing body of the municipality. No such action may be maintained until such notice has been given.
- 1470.2** Jurisdiction. The local District Justice shall have initial jurisdiction over proceedings brought under this section.

SECTION 1471: PENALTIES FOR VIOLATION:

- a.** Any person, partnership or corporation who or which has violated or permitted the violation of the provisions of any zoning ordinance enacted under this act or prior enabling laws shall, upon being found liable therefore in a civil enforcement proceeding commenced by the township, pay a judgment of not more than \$500 plus all court costs, including reasonable attorney fees incurred by a municipality 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 municipality 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 municipality whose ordinance has been violated.
- b.** The Court of Common Pleas, upon petition, may grant an order of stay, upon cause shown, tolling the per diem fine pending a final adjudication of the violation and judgment
- c.** Nothing contained in this section shall be construed or interpreted to grant to any person or entity other than the township the right to commence any action for enforcement pursuant to this section.

SECTION 1472: TOWNSHIP'S ABILITY TO SEEK RELIEF:

Nothing contained in the preceding section shall be considered to limit the ability of the Township to seek appropriate relief, including injunctive relief, in accordance with the provisions of applicable Pennsylvania law.

SECTION 1480: FEES:

The Board of Commissioners shall establish and revise, from time to time, a schedule of fees by resolution, as well as a collection procedure, for all applications submitted under the provisions of this ordinance. The fees shall be deposited in escrow for payment of review and inspection fees of the Township Engineer and professional consultants. The schedule of fees shall be available to the public from the Zoning Officer or Township Manager.

SECTION 1500

OIL AND GAS DEVELOPMENT

SECTION 1500: OIL AND GAS DEVELOPMENT (See Article XVI Cross Reference)

1500 It is specifically declared and ordained that any use for oil and gas development is conditional use, and that formal application(s) must be made, as set forth herein. Reference is also made to the other provisions of this ordinance, including specifically Section 1600.

SECTION 1501: APPLICATION REQUIREMENTS:

1501.1 A conditional use application in accordance with Kennedy Township regulations.

The application will include a survey of the proposed well site showing all permanent structures and facilities (including locations and distances) within 3,000 feet of the site. Upon approval of the conditional use application, the Operator will be required to obtain a "Land Operations Permit" for each well proposed on the Well Site.

1501.2 The Well Operator desiring approval of a conditional use application pursuant to this ordinance shall submit a written application. The application shall not be considered to be complete and properly filed unless and until all items required by this section, including the application fee, have been received. Such application shall include the following information and plans:

- a.** Payment of an application fee of \$5,000, or such fee that may subsequently

be set by action by the Township Board of Commissioners. The applicant shall also provide to the Township the sum of \$5,000, or such additional amount as may be established by action of the Board of Commissioners, to be deposited into an escrow account from which the Township may draw from/be reimbursed for administrative expenses and engineering costs and fees for review and inspections to ensure compliance ordinance. The Township may adjust the escrow amount from time to time as may reasonably be required to cover administrative and engineering expenses. The Township shall be reimbursed for any costs over and above the escrow amount along with a ten percent administrative and overhead charge within thirty days of invoicing by the Township. It is specifically noted, as set forth elsewhere in this ordinance, the Board of Commissioners may set various fees, including the fees required herein, by appropriate action.

- b.** Fourteen (14) paper copies and one electronic copy of the completed application form supplied by the Township along with supporting documentation as identified in this section.
- c.** Copies of any and all permits and applications submitted to the various local, county, state and federal agencies. Permits and plans shall include but not be limited to the Pennsylvania Department of Environmental Protection well application and permit, ESCGP-1 or other erosion and sedimentation permits and all air, water and waste management permits.
- d.** Applicant shall comply with all applicable Township codes including but not limited the subdivision and land development code.
- e.** Written authorization from the property owner(s) who has legal or equitable title in and to the surface of the proposed development or facility.
- f.** A site plan prepared by a licensed engineer shall be provided to establish compliance with all applicable regulations. All drilling and production operations, including derricks, vacuum pumps, storage tanks, vehicle parking, structures, machinery, temporary housing, ancillary equipment and Facilities shall be located not less than 1,000 feet from any Protected Structure and not less than 200 feet from the nearest property line. (A specific list of setbacks is included further herein.)
- g.** Traffic Impact Study - The applicant shall provide a traffic impact study and shall include particular emphasis on the following:
 - A description of plans for the transportation and delivery of equipment, machinery, water, chemicals, products, materials and other items to be utilized in the sitting, drilling stimulating, completion, alteration and operation of the Development or Facility. Such description shall include a map showing the planned vehicular access route to the development site,

indicating all state, county, and local roads, and transportation infrastructure that may be used and the type, weight, number of trucks and delivery necessary to support each phase of the development.

- An inventory, analysis, and evaluation of existing road conditions on Township roads along the proposed transportation route identified by the applicant, including photography, video and core boring as determined to be necessary by the Township Engineer.

- h.** The applicant shall provide a water withdrawal plan for the Development identifying the source of water, how many gallons will be used and withdrawn each day, the origination of the water, proposed truck routes and all permits issued by the Commonwealth of Pennsylvania or any other governmental body. The site for the treatment and disposal of the water will also be identified.
- i.** The applicant shall identify the means and availability of the site for disposal of cuttings, fracturing fluids, oil, toxic materials, hazardous materials and other waste products.
- j.** The applicant shall provide a plan for the transmission of gas from the Development. The plan will identify but not be limited to gathering lines, compressors and other mid and downstream facilities located within the Township and extending 800 ft beyond the Township boundary.
- k.** The applicant shall provide to the Township a Preparedness, Prevention and Contingency ("PPC") Plan as defined in the PADEP document Guidelines for the Development and Implementation of Environmental Emergency Response Plans or the most recent applicable guidance document.
- l.** The applicant shall provide the GIS location and 911 address of the Well Site.
- m.** Noise Management Plan - The Noise Management Plan shall detail how the equipment used in connection with the Development or Facility, including but not limited to the drilling, completion, transportation, or production of a well complies with the maximum permissible noise levels as defined by the applicable codes. The Noise Management Plan must:
 - Identify the sound power level of all major equipment and/or processes including the identification of maximum sound power levels at all points designated by the Township.
 - Provide documentation establishing the Ambient Noise Level, as defined in Section 202 (Section 1 herein).
 - Provide documentation including computer modeling in form and substance satisfactory to the Township and performed by a qualified person approved by the

Township, establishing compliance with this section during the construction and operation of the applicable Development or Facility.

- Detail how noise impacts will be mitigated. In determining noise mitigation, specific site characteristics shall be considered, including but not limited to the following:
 - i. Nature and proximity of adjacent development, location, and type;
 - ii. Seasonal and prevailing weather patterns, including wind directions;
 - iii. Vegetative cover on or adjacent to the site;
 - iv. Topography;
 - v. Operation and site noise management measures, which may include, but not be limited to: Use of critical grade mufflers on generators and motors; equipment or process substitution with a lower sound power level; use of structural noise curtains, walls, or enclosures; and best management practices by utilizing best available control technology to limit or eliminate noisier operations, such as tripping, deliveries of pipe, casing and heavy loads, use of horns for communication, and operation of vehicle audible back-up alarms at night.
 - vi. Ability to increase setbacks;
 - vii. Erection of sound barriers; and
 - viii. Altering the direction, size, proximity, duration and extent of the operations associated with the applicable Development or Facility.

- n. Community and Environmental Impact Analysis - An environmental impact analysis statement shall be submitted to the Township prior to approval of any Development or Facility. The person(s) drafting the statement shall be qualified and have prior approval by the Township. The purpose of the statement is to determine the impact of the project on the environment of the existing site and the resultant changes the proposal will have on the immediate site and surrounding area. This information will allow the Township to make more informed decisions relating to the proposed action. At a minimum, the written statement shall provide of the following information:
 - A description of the proposed Development or Facility, its purpose, a schedule of construction and length of operation and its interrelationship with other oil and gas developments within the Township. This information and technical data must be sufficient to allow a thorough assessment of the proposed development or facility's environmental impact.

- A comprehensive description of baseline environmental conditions identified before any activities associated with the Development or Facility and then probable environmental impacts both during and after complete build out of the proposed Development or Facility. This description should focus both on the environmental details most likely to be affected by the Development or Facility proposal and on the broader regional aspects of the environment, including ecological interrelationships.
- A description of the environmental impacts of the proposed Development or Facility. These impacts are defined as direct or indirect changes in the existing environment, either beneficial or detrimental. Whenever possible, these impacts should be quantified. This discussion should include the impact not only upon the natural environment, but upon land use as well. Provide separate discussion for such potential impacts as man-caused accidents and natural catastrophes and their probabilities and risks with supporting statistics developed by an analysis of similar Developments or Facilities in similar locations. Specific mention should also be made of partially understood impacts.
- A discussion of measures which are required to or may enhance, protect, or mitigate impacts upon the environment, including any associated research or monitoring. Include sufficient documentation and supporting material to demonstrate that the proposed measures will function as expected.
- A discussion of the unavoidable adverse impacts described above, the relative values placed upon those impacts, and an analysis of who or what is affected and to what degree affected.
- A discussion of the short term impacts (i.e. those occurring during build out of the Development or Facility), long term impacts and cumulative impacts to the environment. Particular attention should be paid to the Development or Facility's relationship to trends of similar Developments or Facilities (i.e. cumulative noise degradation poised by similar Developments or Facilities).
- A discussion, quantified where possible, of any irrevocable uses of resources, including such things as resource extraction, erosion, destruction of archaeological or historical sites, elimination of endangered species' habitat, and significant changes in land use.
- A description of the environmental impacts, both beneficial and adverse, of the various alternatives considered.
- Hydrologic analysis and information, including but not limited to a description, inventory, analysis, and evaluation of the existing groundwater conditions. This analysis must be focused in terms of both surface water and groundwater quality and quantity, a discussion of likely and possible changes to these resources and a discussion of measures to reduce or mitigate the identified impacts.

- o. The applicant shall provide any and all waivers from owners of Protected Structures.

- 1501.3 a.** Oil and Gas Development Well Sites shall be permitted to occur on property that is a minimum of ten (10) acres. Multiple property owners can combine adjoining parcels to achieve the minimum acreage required.

Recognizing that the specific location of equipment and facilities is an important and integral part of Oil and Gas Development, as part of the planning process, Operator shall locate the proposed temporary and/or permanent operations so as to minimize interference with Township residents, and future Township development activities as authorized by the Township's Board of Commissioners. Reference is made to the table below, which lists the minimum offset distance from the existing or proposed well, to the existing or proposed protected structure.

SET BACK DISTANCES (Minimum)
from PROTECTED STRUCTURES

RESIDENCES	250 FEET	HOSPITAL	1,000 FEET
SCHOOL	500 FEET	POND/LAKE	500 FEET
STREAM	500 FEET	NURSING HOME	1,000 FEET
WETLAND (2 ACRES)	500 FEET	DAY CARE	500 FEET
GAS STATION	500 FEET		
MOBILE PARK HOME	500 FEET		

- b. Oil and Gas Development in the floodway of any regulated floodplain and/or within the remainder of the 100 year floodplain is prohibited.
- c. As part of the Land Operations Permit, the Operator shall submit the following to the Township for review:
 - 1) A copy of all permits (General, ESCGP-1, etc.) required and issued by the Pennsylvania Department of Environmental Protection (PADEP) and Allegheny County Conservation District (ACCD);
 - 2) A map showing the planned access routes to the Well Site(s);

- 3) A completed 'Excess Maintenance Agreement' for the particular well site; or bonding of roads in an amount acceptable to the Township;
 - 4) The well survey plat showing the planned surface location(s) of the well(s);
 - 5) All applicable contact information for the Operator, including phone number of supervisor that can be reached twenty-four (24) hours a day.
- d.** Mobilization/Demobilization of equipment for development of an Oil or Gas Well site(s) shall be subject to all regulations (i.e. roadway bonding, etc.) adopted by Kennedy Township and Pennsylvania Department of Transportation (Penn DOT). Access of a well site directly onto a state road(s) shall require the issuance of a Highway Occupancy Permit from PennDOT.
- e.** The Operator shall take the necessary safeguards to ensure that the roads utilized, be it PennDOT, County or Township owned, remain free of dirt, mud and debris; and/or are promptly swept or cleaned if dirt, mud and debris occur. In addition, prior to start of development of the well site, the Operator shall execute an 'Excess Maintenance Agreement' with Kennedy Township. The agreement is to guarantee restoration of state, county, and township roads damaged as a result of Oil and Gas Development traffic.
- f.** The contractor will be required to construct an access road. The subject access road is to be designed to withstand the repeated equipment loads required for the development process, and must be approved by the Township Engineer. Additionally, the width of the access must be such to permit two-way traffic. A rock construction entrance, in accordance with PADEP regulations, is to be constructed at the end of the access road and maintained for the duration of the development process.
- g.** The access drive shall be gated at the entrance. The well site address shall be clearly visible on a sign posted on the access gate for emergency 911 purposes. In addition, the subject sign shall include the well name/number and an emergency contact telephone number.
- h.** The Operator shall take all necessary precautions to ensure the safety of all pedestrians in road crossing areas and/or adjacent to roadways. When deemed necessary, or at the direction of the

Township, the Operator will provide flagmen to ensure the safety of children at or near schools or school bus stops, and include adequate signs and/or other warning measures for truck traffic and vehicular traffic.

- i. Prior to drilling, the Operator shall provide a copy of its Preparedness, Prevention and Contingency ("PPC") Plan to the Township's Fire, Emergency Medical Service, and Police Department, for review. Included with the PPC Plan shall be a list of all chemicals or waste products to be used or produced during development procedures.

Upon review of the PPC Plan, a meeting between all parties will be held to discuss Emergency and First Response procedures; and determine which First Response personnel have secured adequate training (5 hours minimum per year) to deal with any potential dangerous conditions that may result due to development activities. Operator shall arrange visit to site by Township emergency service providers for the purpose of orientation to the location of equipment and materials.

Should First Response training become necessary, prior to drilling, the Operator will make available an appropriate training program for First Responders. This training program will be at the sole expense of the Operator, and shall be made available annually for the duration of the drilling activities in the Township.

- j. The Operator shall grant the right of inspection to the Township for all phases of construction and during drilling production and in the reclamation, both in relation to the enforcement of this ordinance and pursuant to the Township of Kennedy's enforcement rights under 58 P.S. 601.504(b) of Pennsylvania's Oil and Gas Act and any other relevant Pennsylvania Statute.
- k. Recognizing that adequate and appropriate lighting is essential to the safety of those involved in the Development of Oil and Gas, the Operator shall take steps, to the extent practicable, to direct site lighting to minimize glare on public roads and adjacent buildings within three hundred (300) feet of the drill site, wellhead, or other area being developed.
- l. Prior to the commencement of drilling activities, all construction activities involving any facet of excavation or preparation of the Well Site shall be performed in accordance with the normal construction activity hours as outlined in the Township Construction Standards.

- m. Prior to any Oil and Gas Development well(s) at a location, the Operator shall provide notice of such to each resident within 3,000 feet of the planned surface location, and shall, upon request, provide the following information to each resident within 3,000 feet of the planned surface location:
- A copy of the well survey plat showing the location(s) of the planned well(s);
 - A general description of the planned operations and associated equipment;
 - All applicable contact information for the Operator;
 - If requested by the Township, the Operator will hold a meeting with such residents to present Operator's various plans for the well(s), and to allow for questions and answers.
- n. All well sites and off-site fracture ponds shall be screened, fenced and secured with a gate as follows:
- All well sites are to be constructed to minimize disturbance and maintain as much "natural" screening as possible.
 - Temporary chain link fencing at least six (6) feet in height with eleven (11) gauge minimum thickness. Support posts must be set in concrete and imbedded into the ground to a depth sufficient to maintain stability.
 - Screening shall be green fabric mesh, or other material type approved by the Township.
 - Each gate opening shall be not less than twelve (12) feet wide and be comprised of two (2) separate gates, each of which is not less than six (6) feet wide. All gates shall be latched and locked at the center.
 - For each entrance gate, the Operator shall provide the Township with a "lock box and key" to access the well site in case of emergency.
 - Warning signs shall be install at one hundred (100) foot spacing to provide notice of the potential dangers.
 - Operator shall provide at least one security guard at all times (i.e. 24 hours per day, 7 days per week) when a drilling rig or hydraulic fracturing equipment is on the Well site.
- o. Township recognizes and acknowledges that Oil and Gas Development is accompanied by inherent noise. However, the Operator shall take the necessary steps to minimize, to the extent practicable, the noise resulting from the Oil and Gas Development. Be advised that – when requested by the Township – the Operator shall install sound attenuation devices such as acoustical blankets, sound walls, mufflers, etc. to ensure

compliance with the Township noise regulations, especially when well sites are located adjacent to residential developments and public facilities.

If public complaint(s) regarding noise are received by the Township, the Operator shall, within twenty-four (24) hours of receipt of the direction from the Township, continuously monitor the noise levels for a forty-eight (48) hour period at a point acceptable to the Township.

- p.** Exhaust from any internal combustion engine or compressor used in connection with any Development operation shall not be discharged into the open air unless it is equipped with (1) an exhaust muffler, or (2) an exhaust box. The exhaust muffler or exhaust box shall be constructed of non-combustible materials designed and installed to suppress noise and disruptive vibrations. Moreover, all such equipment with an exhaust muffler or exhaust box shall be maintained in good operating condition according to manufacturer's specifications.
- q.** Paragraphs f), g), h), n, and n), and o) of this Ordinance shall not apply to conventional oil and gas well drilling and completion activities. Examples of conventional oil and gas drilling activities are:

 - Oil and gas wells drilled to depths shallower than the base of the Elk Sandstone or its stratigraphic equivalent;
 - Oil and gas wells that are planned to involve drilling of a single well on a site for no more than seven (7) consecutive days total in any calendar year.
- r.** Upon completion of the development operations, the Operator will be required to restore the site area in a manner acceptable to the Township, assuring compliance with the Oil and Gas Act, or other applicable law. This may include one or more of the following:

 - The submission of a landscaping plan, to be reviewed and approved by the Township, which outlines the proposed methods of restoration.
 - The installation of Buffer Areas
 - Construction of other similar restoration measures either requested during the Conditional Use Application process, or deemed necessary by the Township at the time of final restoration.
- s.** All other criteria, standards and regulations of oil and gas exploration and production are under the control of the Department of Environmental Resources and subject to the Oil and Gas Act Sections 601.101 through

601.605 as amended and other relevant Commonwealth of Pennsylvania Statutes.

- t. The proposed truck route plan must be designed to minimize the impact on collector, connector and local streets within the Township. The Township reserves the right to designate required truck routes throughout the Township.

SECTION 1550: CONSTRUCTION NEAR GAS WELLS:

- 1550.1** Due to the potential for harm, and in consideration of the overall safety and health of the residents of Kennedy Township, it is specifically mandated that no new construction may occur closer than the minimum set back distances listed in section 1501.3. In the event that new construction is to occur in the area of an existing gas well, appropriate buffers must be created, so as to isolate the specific location of the well. The well may not, in any manner be hidden, although, if approved by the township, appropriate landscaping may be placed for aesthetic purposes.
- 1550.2** In all respects, any proposed development, to occur within two hundred fifty (250) feet of an existing gas well, must disclose the existence of and location of, any such gas well, and such wells shall be showed on any plans for development.

ARTICLE XVI

EXPRESS STANDARDS AND CRITERIA FOR

GRANTING CONDITIONAL USES AND USES

BY SPECIAL EXCEPTION

SECTION 1601: APPLICABILITY:

The following procedures shall apply to all applicants for approval of a conditional use or use by special exception in all zoning districts.

SECTION 1602: PROCEDURES FOR APPROVAL:

1602.1 Approval of conditional use. The Board of Commissioners shall hear and decide requests for conditional uses. However, the Board of Commissioners shall not approve a conditional use application unless and until:

- (1)** A written application for conditional use approval is submitted to the Zoning Officer no less than 28 calendar days prior to the regular meeting of the Planning Commission. The application shall indicate the section of this ordinance under which conditional use approval is sought and shall state the grounds upon which it is requested. The application shall include the following:
 - a.** A preliminary land development plan, if required by the Township Subdivision and Land Development Ordinance or, if a land development plan is not required, a current property survey indicating all existing and proposed structures and all proposed construction, additions or alterations on the site in sufficient detail to determine the feasibility of the proposed development and compliance with all applicable requirements of this ordinance.
 - b.** A written statement showing compliance with the applicable express standards and criteria of this article for the proposed use.
 - c.** A traffic impact study prepared in accordance with the requirements of Township ordinance or other government requirement.
 - d.** The application fee required by the Township. The requirement for a payment is to be placed in escrow for reviews and inspections by the Township Engineer and professional consultants.
- (2)** A written recommendation is received from the Township Planning Commission or 45 days has passed from the date of the Planning Commission meeting at which the application is first considered as complete and properly filed for approval.
- (3)** Notice of the public hearing is conspicuously posted by the Township at points deemed sufficient by the Township on and around the property to notify potentially interested citizens at least seven days prior to the date of the public hearing.
- (4)** A public hearing is conducted by the Board of Commissioners pursuant to public notice and said hearing is scheduled no more than 60 days following the date of submission of a complete and properly filed application, unless the applicant has agreed in writing to an extension of time.

- (5) Each subsequent hearing before the Board of Commissioners shall be held within 45 days of the prior hearing, unless otherwise agreed to by the applicant in writing or on the record. An applicant shall complete the presentation of his case-in-chief within one 100 days of the first hearing. Upon the request of the applicant, the Board of Commissioners shall assure that the applicant receives at least seven hours of hearings within the 100 days, including the first hearing. Persons opposed to the application shall complete the presentation of their opposition to the application within 100 days of the first hearing held after the completion of the applicant's case-in-chief. And the applicant may, upon request, be granted additional hearings to complete his case-in-chief, provided the persons opposed to the application are granted an equal number of additional hearings. Persons opposed to the application may, upon the written consent or consent on the record by the applicant and the Township, be granted additional hearings to complete their opposition to the application, provided the applicant is granted an equal number of additional hearings for rebuttal.
- (6) The Board of Commissioners shall render a written decision within 45 days after the last public hearing. Where the application is contested or denied, the decision shall be accompanied by findings of fact and conclusions based thereon. Conclusions based on any provision of this ordinance or any other applicable rule or regulation shall contain a reference to the provision relied upon and the reasons why the conclusion is deemed appropriate in light of the facts found.
- (7) Where the Board of Commissioners fails to render a decision within the required 45 days or fails to commence, conduct or complete the required hearing as specified above, 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. The Board of Commissioners shall give public notice, as defined herein, of said deemed approval within 10 days from the last day it could have met to render a decision. If the Board of Commissioners 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.
- (8) In approving an application for conditional use approval, the Board of Commissioners may attach such reasonable conditions and safeguards, other than those related to offsite transportation or road improvements, in addition to those expressed in the ordinance, as it may deem necessary to implement the purposes of this ordinance and the MPC. A violation of such conditions and safeguards, when made a part of the terms and conditions under which conditional use approval is granted, shall be deemed a violation of this ordinance and shall be subject to the enforcement provisions of this ordinance.

- (9) It is specifically noted that notice of a decision will be provided in accordance with the applicable provisions of the Municipalities Planning Code, and/or other applicable law.

1602.2 Expiration of conditional use approval. Conditional use approval shall expire automatically without written notice to the applicant if no application for a grading permit, a building permit or a certificate of occupancy to undertake the construction or authorize the occupancy described in the application for conditional use approval is submitted within twelve (12) months of said approval, unless the Board of Commissioners, in its sole discretion, extends conditional use approval upon written request of the applicant received prior to its expiration. The maximum extension permitted shall be one twelve-month extension.

SECTION 1603: ZONING HEARING BOARD:

1603.1 Zoning Hearing Board's Functions; Special Exception. Special exceptions may be granted or denied by the Board pursuant to express standards and criteria, the Board shall hear and decide requests for such special exceptions in accordance with such standards and criteria. 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 the MPC and the zoning ordinance.

1603.2 Approval of uses by special exception. The Zoning Hearing Board shall hear and decide requests for uses by special exception. The Zoning Hearing Board shall not approve an application for a use by special exception unless and until:

- (1) A written application for approval of a use by special exception is submitted to the Zoning Officer. The application shall indicate the section of this ordinance under which approval of the use by special exception is sought and shall state the grounds upon which it is requested. The application shall include the following:
- a. A current property survey indicating all existing and proposed structures and all proposed construction, additions or alterations on the site in sufficient detail to determine the feasibility of the proposed development and compliance with all applicable requirements of this ordinance.
 - b. A written statement showing compliance with the applicable express standards and criteria of this article for the proposed use.
 - c. In the case of a plan that meets the criteria of the Township's current Traffic Impact Study Ordinance (Ordinance No. 4 of 2001

as now or hereafter amended), a traffic impact study prepared in accordance with the requirements of this ordinance.

d. The application fee required by the Township.

- (2) Written notice of the hearing shall be sent by first class mail or email to all property owners within 300 feet of the perimeter of the property for which the application is submitted.
- (3) A hearing pursuant to public notice is conducted by the Zoning Hearing Board within 60 days of submission of a complete and properly filed application unless the applicant has agreed in writing to an extension of time. Said hearing shall be conducted in accordance with the procedures specified by this ordinance.
- (4) In proceedings involving a request for a use by special exception, both the duty initially presenting evidence and the burden of persuading the Zoning Hearing Board that the proposed use is available by special exception and satisfies the specific or objective requirements for the grant of a use by special exception as set forth in this ordinance rest upon the applicant. The burden of persuading the Zoning Hearing Board that the proposed use will not offend general public interest, such as the health, safety and welfare of the neighborhood, rests upon the applicant.
- (5) In considering an application for approval of a use by special exception, the Zoning Hearing Board may prescribe appropriate conditions and safeguards in conformity with the spirit and intent of this article. A violation of such conditions and safeguards, when made a part of the terms and conditions under which approval of a use by special exception is granted, shall be deemed a violation of this ordinance and shall be subject to the enforcement provisions of this Ordinance.
- (6) If land development plan approval is required for the use by special exception, the application for approval of a land development required by the Township Subdivision and Land Development Ordinance shall be submitted to the Township Planning Commission following approval of the use by special exception by the Zoning Hearing Board.

1603.3 Hearings. The Zoning Hearing Board shall conduct hearings and make decisions in accordance with the following requirements:

- (1) Public notice shall be given and written notice shall be given to the applicant, the zoning officer, such other persons as the governing body shall designate by ordinance and to any person who has made timely request for the same. Written notices shall be given at such time and in such manner as shall be prescribed by ordinance or, in the absence of ordinance provision, by rules of the Board. In addition to the written notice provided herein, written notice of said hearing shall be conspicuously posted on the affected tract of land at

least one week prior to the hearing.

- (1.1)** The governing body may prescribe reasonable fees with respect to hearings before the zoning hearing board. Fees for said hearings may include compensation for the secretary and members of the Zoning Hearing Board, notice and advertising costs and necessary administrative overhead connected with the hearing. The costs, however, shall not include legal expenses of the Zoning Hearing Board, expenses for engineering, architectural or other technical consultants or expert witness costs.
- (1.2)** The first hearing before the Board or hearing officer shall be commenced within 60 days from the date of receipt of the applicant's application, unless the applicant has agreed in writing to an extension of time. Each subsequent hearing before the board or hearing officer shall be held within 45 days of the prior hearing, unless otherwise agreed to by the applicant in writing or on the record. An applicant shall complete the presentation of his case-in-chief within 100 days of the first hearing. Upon the request of the applicant, the Board or hearing officer shall assure that the applicant receives at least seven hours of hearings within the 100 days, including the first hearing. Persons opposed to the application shall complete the presentation of their opposition to the application within 100 days of the first hearing held after the completion of the applicant's case-in-chief. An applicant may, upon request, be granted additional hearings to complete his case-in-chief provided the persons opposed to the application are granted an equal number of additional hearings. Persons opposed to the application may, upon the written consent or consent on the record by the applicant and municipality, be granted additional hearings to complete their opposition to the application provided the applicant is granted an equal number of additional hearings for rebuttal.
- (2)** The hearings shall be conducted by the Board or the Board may appoint any member or an independent attorney as a hearing officer. The decision, or, where no decision is called for, the findings shall be made by the board; however, the appellant or the applicant, as the case may be, in addition to the municipality, 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.
- (3)** 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 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.

- (4) The chairman or acting chairman of the board or the hearing officer presiding shall have power to administer oaths and issue subpoenas to compel the attendance of witnesses and the production of relevant documents and papers, including witnesses and documents requested by the parties.
- (5) 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.
- (6) Formal rules of evidence shall not apply, but irrelevant, immaterial, or unduly repetitious evidence may be excluded.
- (7) 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.
- (8) 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 representative unless all parties are given an opportunity to be present.
- (9) 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 therefore. Conclusions based on any provisions of this act or of any ordinance, rule or regulation shall contain a reference to the provision relied on and the reasons why the conclusion is deemed appropriate in the light of the facts found. If the hearing is conducted by 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. Except for challenges filed under section 916.1 of the MPC where the Board fails to render the decision within the period required by this subsection or fails to commence, conduct or complete the required hearing as provided in subsection (1.2), 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 ten days from the last day it could have met to render a decision in the same manner as provided in subsection (1) 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.

- (10)** 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.

1603.4 Jurisdiction.

- (a)** The Zoning Hearing Board shall have exclusive jurisdiction to hear and render final adjudications in the following matters:
- (1)** Substantive challenges to the validity of any land use ordinance, except those brought before the governing body pursuant to sections 609.1 and 916.1(a)(2) of the MPC.
 - (2)** Appeals from the determination of the zoning officer, including, but not limited to, the granting or denial of any permit, or failure to act on the application therefore, the issuance of any cease and desist order or the registration or refusal to register any nonconforming use, structure or lot.
 - (3)** Appeals from a determination by a municipal engineer or the zoning officer with reference to the administration of any flood plain or flood hazard ordinance or such provisions within a land use ordinance.

- (4) Applications for variances from the terms of the zoning ordinance and flood hazard ordinance or such provisions within a land use ordinance, pursuant to section 910.2 of the MPC.
 - (5) Applications for special exceptions under the zoning ordinance or flood plain or flood hazard ordinance or such provisions within a land use ordinance, pursuant to section 912.1 of the MPC.
 - (6) Appeals from the determination of any officer or agency charged with the administration of any transfers of development rights or performance density provisions of the zoning ordinance.
 - (7) Appeals from the zoning officer's determination under section 916.2 of the MPC.
 - (8) Appeals from the determination of the zoning officer or municipal engineer in the administration of any land use ordinance or provision thereof with reference to sedimentation and erosion control and storm water management insofar as the same relate to development not involving MPC Article V or VII applications.
 - (9) The planning agency, if designated, shall have exclusive jurisdiction to hear and render final adjudications in the following matters:
- (b) The governing body or, except as to clauses (2), (3) and
 - (1) All applications for approvals of planned residential developments under Article VII pursuant to the provisions of section 702 of the MPC.
 - (2) All applications pursuant to section 508 of the MPC for approval of subdivisions or land developments under Article V. Any provision in a subdivision and land development ordinance requiring that final action concerning subdivision and land development applications be taken by a planning agency rather than the governing body shall vest exclusive jurisdiction in the planning agency in lieu of the governing body for purposes of the provisions of this paragraph.
 - (3) Applications for conditional use under the express provisions of the zoning ordinance pursuant to section 603(c)(2) of the MPC of this ordinance.
 - (4) Applications for curative amendment to a zoning ordinance pursuant to sections 609.1 and 916.1(a)(2) of the MPC and this ordinance.
 - (5) All petitions for amendments to land use ordinances, pursuant to the procedures set forth in MPC section 609. Any action on such petitions shall be deemed legislative acts, provided that nothing contained in this clause shall be deemed to enlarge or diminish existing law with reference to appeals to court.
 - (6) Appeals from the determination of the zoning officer or the municipal

engineer in the administration of any land use ordinance or provisions thereof with reference to sedimentation and erosion control and storm water management insofar as the same relate to application for land development under Articles V and VII of the MPC. Where such determination relates only to development not involving an Article V or VII application, the appeal from such determination of the zoning officer or the municipal engineer shall be to the zoning hearing board pursuant to subsection (a)(9). Where the applicable land use ordinance vests jurisdiction for final administration of subdivision and land development applications in the planning agency, all appeals from determinations under this paragraph shall be to the planning agency and all appeals from the decision of the planning agency shall be to court.

- (7)** Applications for a special encroachment permit pursuant to MPC section 405 and applications for a permit pursuant to MPC section 406.

1603.5 Zoning Hearing Board's Functions;

Variances.

- a.** 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 where relevant in a given case:
 - (1)** That there are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property and that the unnecessary hardship is due to such conditions and not the circumstances or conditions generally created by the provisions of the zoning ordinance in the neighborhood or district in which the property is located.
 - (2)** That because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the zoning ordinance and that the authorization of a variance is therefore necessary to enable the reasonable use of the property.
 - (3)** That such unnecessary hardship has not been created by the appellant.
 - (4)** That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, nor substantially or permanently impair the appropriate use or development

of adjacent property, nor be detrimental to the public welfare.

(5) That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible of the regulation in issue.

- b.** In granting any variance, the board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of this act and the zoning ordinance.

1603.6 Parties Appellant Before the Board.

Appeals under section 1603.4 may be filed with the board in writing by the landowner affected, any officer or agency of the municipality, or any person aggrieved. Requests for a variance and for special exception may be filed with the board by any landowner or any tenant with the permission of such landowner.

1603.5 Time Limitations.

- a.** No person shall be allowed to file any proceeding with the board later than thirty (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 MPC section 709 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 shall preclude an appeal from a final approval except in the case where the final submission substantially deviates from the approved tentative approval.
- b.** All appeals from determinations adverse to the landowners shall be filed by the landowner within thirty (30) days after notice of the determination is issued.

1603.6 Stay of Proceedings.

- a.** Upon filing of any proceeding referred to in section 1603.6 and during its pendency before the board, all land development pursuant to any challenged ordinance, order or approval of the zoning officer or of any agency or body, and all official action thereunder, shall be stayed unless the zoning officer or any other appropriate agency or body certifies to the board facts indicating that such stay would cause imminent peril to life or property, in which case the development or official action shall not be stayed otherwise than by a

restraining order, which may be granted by the board or by the court having jurisdiction of zoning appeals, on petition, after notice to the zoning officer or other appropriate agency or body. When 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.

- b.** After the petition is presented, the court shall hold a hearing to determine if the filing of the appeal is frivolous. At the hearing, evidence may be presented on the merits of the case. It shall be the burden of the applicant for a bond to prove the appeal is frivolous. After consideration of all evidence presented, if the court determines that the appeal is frivolous, it shall grant the petition for a bond. The right to petition the court to order the appellants to post bond may be waived by the appellee, but such waiver may be revoked by him if an appeal is taken from a final decision of the court.
- c.** The question whether or not such petition should be granted and the amount of the bond shall be within the sound discretion of the court. An order denying a petition for bond shall be interlocutory. An order directing the responding party to post a bond shall be interlocutory.
- d.** If an appeal is taken by a respondent to the petition for a bond from an order of the court dismissing a zoning appeal for refusal to post a bond and the Appellate Court sustains the order of the court below to post a bond, the respondent to the petition for a bond, upon motion of the petitioner and after hearing in the court having jurisdiction of zoning appeals, shall be liable for all reasonable costs, expenses and attorney fees incurred by the petitioner.

1603.7

Expiration of approval of a use by special exception. Approval of a use by special exception shall expire automatically without written notice to the applicant if no application for a land development plan, a grading permit, a building permit or a certificate of occupancy to undertake the construction or authorize the occupancy described in the application for approval of the use by special exception is submitted within twelve (12) months of said approval, unless the Zoning Hearing Board, in its sole discretion, extends approval of the use by special exception upon written request of the applicant received prior to its expiration. The maximum extension permitted shall be one twelve-month extension.

SECTION 1604: GENERAL STANDARDS:

In addition to the specific standards and criteria listed for each use in 1605 below, all applications for conditional uses and uses by special exception listed in each zoning district shall demonstrate compliance with all of the following general standards and criteria:

- A.** The use shall not endanger the public health, safety or welfare nor deteriorate the environment as a result of being located on the property where it is proposed.
- B.** The use shall comply with the performance standards of this Ordinance.
- C.** The use shall comply with all applicable requirements of the Ordinance governing parking and loading; the Ordinance governing signs; the ordinance governing screening and landscaping; and the Ordinance governing storage.
- D.** Ingress, egress and traffic circulation on the property shall be designed to ensure safety and access by emergency vehicles and to minimize congestion and the impact on local streets.
- E.** Outdoor lighting, if proposed, shall be designed with cutoff luminaires that direct and cut off the light at a cutoff angle of 60° or less. Illumination shall not exceed 0.2 foot-candle at the property line.
- F.** For all uses which are subject to the requirements of the Americans with Disabilities Act (ADA), the applicant shall certify that all applicable ADA requirements have been met in the design.

SECTION 1605: STANDARDS FOR SPECIFIC USES:

In addition to the general standards and criteria for all conditional uses and uses by special exception listed in 1603 above, an application for any of the following uses which are listed in any zoning district as a conditional use or use by special exception shall comply with the applicable standards and criteria specified below for that use.

1605.1 Proposed Conditional use for Group Residence Facilities and Personal Care Homes in “R-4” and “C-1” Districts

The standards of review for dealing with proposed conditional use for group residence facilities and personal care homes in the “R-4” and “C-1” Districts are as follows:

- a. Whether the establishment, maintenance, location and operation of the proposed use will be detrimental to or endanger the public health, safety, morals, comfort or general welfare.
- b. Whether the proposed use will be injurious to the use and enjoyment of other properties in the immediate vicinity for the purposes permitted.
- c. Whether the establishment and proposed use will impede the normal and orderly development and improvements of surrounding properties for uses permitted in that district.
- d. Whether adequate facilities, access roads, drainage or other necessary facilities have been or will be provided.
- e. Whether adequate measures have been or will be taken to provide ingress and egress so as to minimize traffic congestion in the public streets.
- f. Whether the proposed use will, in all other respects, conform to the applicable regulations or to the district in which it is located.

1605.2 Animal hospital, subject to:

- a. The minimum lot area required for an animal hospital shall be 20,000 square feet, unless the animal hospital is located within a planned shopping center.
- b. Outdoor kennels or runs shall not be permitted.
- c. Overnight boarding of animals, other than for medical supervision, shall be permitted, if the animals are housed overnight within a completely enclosed building.
- d. Kennels associated with animal hospitals shall be licensed by the commonwealth and shall continue to maintain a valid license throughout their operation. Any suspension of the license shall be a violation of this ordinance and shall be subject to the enforcement provisions of this Ordinance.
- e. Odors shall be controlled so as to comply with the performance standards of this Ordinance and applicable law.

1605.3 Apartment in combination with business, subject to:

- a. Dwelling units shall be located on the second floor or, if located on the first floor, shall be in a separate unit from the business.
- b. Dwelling units shall have a minimum habitable floor area of 800 square feet.
- c. Dwelling units in basements or accessory garages shall not be permitted.

- d. Each dwelling unit shall have a separate entrance which does not require passing through any area devoted to office or retail use.
- e. One and one-half off-street parking spaces shall be provided for each dwelling unit, with a minimum of two spaces. Shared parking for residential and commercial uses shall not be permitted.

1605.4 Bed-and-Breakfast, subject to:

- a. The operator shall be a full-time resident of the dwelling in which the bed-and-breakfast is located.
- b. The lot shall have frontage on and direct vehicular access to an arterial or collector street, as defined herein.
- c. The minimum lot area required in the R-1 and R-2 Districts shall be two acres. The minimum lot area required in the R-4 District shall be 6,000 square feet.
- d. No meals, other than breakfast, shall be served on the premises. Food may be prepared on the premises for consumption off the premises by overnight guests. Food shall not be served to any customers who are not overnight guests.
- e. The maximum length of stay for any guest shall be 14 days in any calendar year.
- f. One identification sign shall be permitted and such sign may either be attached to the wall of the building or may be freestanding in the front yard, provided the surface area of the sign shall not exceed six square feet, the height of the freestanding sign shall not exceed four feet and the freestanding sign is located at least five feet from any property line.
- g. The identification sign shall contain no information other than one or more of the following items:
 - [1] The street address.
 - [2] The name of the establishment.
 - [3] The name of the proprietor.
 - [4] A small logo or other decorative symbol.
- h. In addition to the parking required for the dwelling, one parking space shall be provided for each sleeping room offered to overnight guests.
- i. Off-street parking shall not be located in any required front or side yard. Parking located in the rear yard shall be screened from adjoining residential properties by a compact six-foot evergreen hedge.

1605.5 Billboards and projections signs, subject to:

- a. All billboards shall be subject to the express standards and criteria contained in this Ordinance.
- b. Projection signs, as defined in this Ordinance shall be subject to the express standards and criteria contained in this ordinance.

1605.6 Car wash, subject to:

- a. All automated washing facilities shall be in a completely enclosed building, as defined by this ordinance. All other car washing facilities shall be under a roofed structure which has at least two walls.
- b. Drainage water from the washing operation shall be controlled so that it does not flow or drain onto berms, streets or other property.
- c. Standing spaces shall be provided in accordance with the requirements specified in this Ordinance for drive-through facilities.
- d. The facility shall be connected to public sanitary and storm sewers.
- e. Driveway entrances shall be located at least 30 feet from the right-of-way line of the intersection of any public streets.

1605.7 Cemetery, subject to:

- a. A minimum site of 10 acres is required.
- b. A drainage plan shall be submitted with the application for the use, showing existing and proposed runoff characteristics.
- c. A groundwater study prepared by a hydrologist or registered engineer qualified to perform such studies shall be submitted with the application.
- d. Plans for ingress/egress to the site shall be referred to the Township Police Department for comments regarding public safety.
- e. All property lines adjoining residential use or zoning classification shall be screened by a Buffer Area.
- f. All maintenance equipment shall be properly stored in an enclosed building when not in use.
- g. Burial sites shall comply with the setbacks required for principal structures in the Zoning District and burial structures shall not be located within 100 feet of any property line adjoining residential use or Zoning District classification.

1605.8 Churches, schools (public and private), museums, libraries, firehouses and public buildings, other than Township-related facilities, subject to:

- a. The minimum lot area required for a postsecondary school shall be 10 acres. The minimum lot area required for all other uses shall be one acre.
- b. If a residential facility (such as a convent or monastery) is proposed as part of a church, no more than 10 persons shall be housed.
- c. A dwelling (such as a manse or parsonage) may be located on the same lot with a church, provided all requirements of this ordinance for single-family dwellings in the zoning district can be met in addition to the minimum lot area, lot width and yard requirements applicable to the church.
- d. All property lines adjoining single-family use or zoning district classification shall be screened by a Buffer Area.
- e. Ingress and egress to and from police and fire stations shall be located so as to maximize sight distance along adjacent public streets and enhance safety for vehicles exiting the property.
- f. Fire stations, police stations and municipal maintenance facilities shall be located so that vehicles and equipment can be maneuvered on the property without interrupting traffic flow or blocking public streets.
- g. All schools shall be designed to provide convenient access for emergency vehicles and access to all sides of the building by fire-fighting equipment.
- h. All outside storage, including trash dumpsters, shall be completely enclosed by a six-foot hedge or solid fence.
- i. The proposed use shall have direct access to a public street with sufficient capacity to accommodate the traffic generated by the proposed use.

1605.9 Communication tower, subject to:

- a. The applicant shall demonstrate that it is licensed by the Federal Communications Commission (FCC) to operate a communications tower.
- b. Any applicant proposing a new freestanding communications tower shall demonstrate that a good faith effort has been made to obtain permission to mount the antenna on an existing building or other structure or an existing communications tower. A good faith effort shall require that all owners within a one-quarter-mile radius of the proposed site be contacted and that one or more of the following reasons for not selecting an alternative existing building

or communications tower or other structure apply:

- [1] The proposed equipment would exceed the structural capacity of the existing building, communications tower or other structure and reinforcement of the existing building, tower or other structure cannot be accomplished at a reasonable cost.
- [2] The proposed equipment would cause RF (radio frequency) interference with other existing or proposed equipment for that building, tower or other structure and the interference cannot be prevented at a reasonable cost.
- [3] Existing buildings, communications towers or other structures do not have adequate space to accommodate the proposed equipment.
- [4] Addition of the proposed equipment would result in NIER (nonionizing electromagnetic radiation) levels which exceed any adopted local, federal or state emission standards.

- c.** The applicant shall demonstrate that the proposed communications tower and the electromagnetic fields associated with the antennas proposed to be mounted thereon comply with safety standards now or hereafter established by the Federal Communications Commission (FCC).
- d.** The applicant for the communications tower shall demonstrate compliance with all applicable Federal Aviation Administration (FAA) and any applicable airport zoning regulations.
- e.** In the C-2 District, the maximum height of a communications tower shall be 100 feet. In the other commercial and industrial districts, the maximum height of a communications tower shall be 150 feet.
- f.** The applicant shall demonstrate that the proposed height of the communications tower is the minimum height necessary to function effectively.
- g.** In the commercial or industrial districts, all parts of the communications tower, including guy wires, if any, shall be set back from the property line at least 50 feet, except for guyed towers which shall be set back a distance equal to the height of the tower. If the tower is located on property which adjoins any R Residential Zoning District, the setback shall be at least 200 feet. Where the communications tower is located on a leased parcel within a larger tract, the setback shall be measured from the property line which separates the adjoining residentially zoned

property from the larger tract controlled by the lessor, rather than from the boundaries of the leased parcel, provided the larger tract is either vacant or developed for a use other than single-family dwellings.

- h.** The tower and all appurtenances, including guy wires, if any, and the equipment cabinet or equipment building shall be enclosed by a minimum ten-foot-high chain link security fence with locking gate.
- i.** The applicant shall submit evidence that the communications tower and its method of installation has been designed by a registered engineer and is certified by that registered engineer to be structurally sound and able to withstand wind and other loads in accordance with the Township Building Code and accepted engineering practice.
- j.** Equipment cabinets and equipment buildings shall comply with the height and yard requirements of the zoning district for accessory structures.
- k.** Access shall be provided to the communications tower and equipment cabinet or equipment building by means of a public street or right-of-way to a public street. The right-of-way shall be a minimum of 20 feet in width and shall be improved with a dust-free, all-weather surface for its entire length.
- l.** Recording of a plat of subdivision shall not be required for the lease parcel on which the communications tower is proposed to be constructed, provided the equipment building is proposed to be unmanned and the required easement agreement for access is submitted for approval by the Township.
- m.** Approval of a land development plan, prepared in accordance with the requirements of the Township Subdivision and Land Development Ordinance, shall be required for all communications towers.
- n.** The owner of the communications tower shall be responsible for maintaining the parcel on which the communications tower is located, as well as the means of access to the tower, including clearing and cutting of vegetation, snow removal and maintenance of the access driveway surface.
- o.** The owner of any communications tower which exceeds 50 feet in height shall submit to the Township proof of an annual inspection conducted by a structural engineer at the owner's expense and an updated communications tower maintenance program based on the results of the inspection. Any structural

faults shall be corrected immediately and reinspected and certified to the Township by a structural engineer at the owner's expense.

- p.** The owner of the communications tower shall notify the Township immediately upon cessation or abandonment of the operation. The owner of the communications tower shall dismantle and remove the communications tower within six months of the cessation of operations, if there is no intention to continue operations, evidenced by the lack of an application to the Township to install antennas on the existing communications tower. If the owner of the communications tower fails to remove the communications tower, then the landowner shall be responsible for its immediate removal. Failure to remove an abandoned communications tower shall be subject to the enforcement provisions of this Ordinance.
- q.** All communications tower structures shall be fitted with anti-climbing devices as approved by the manufacturer for the type of installation proposed.
- r.** All communications antennas and communications tower structures shall be subject to all applicable Federal Aviation Administration (FAA) and airport zoning regulations.
- s.** No sign or other structure shall be mounted on the communications tower structure, except as may be required or approved by the FCC, FAA or other governmental agency.
- t.** The exterior finish of the communications tower shall be compatible with the immediate surroundings. The communications tower, the equipment cabinet or equipment building and the immediate surroundings shall be properly maintained.
- u.** The base of the communications tower shall be landscaped suitable to the proposed location of the communications tower, if the base of the communications tower is visible from adjoining streets or residential properties.
- v.** At least one off-street parking space shall be provided on the site to facilitate periodic visits by maintenance workers. Manned equipment buildings shall provide one parking space for each employee working on the site.
- w.** No communications antenna or communications tower structure shall be illuminated, except as may be required by the Federal

Aviation Administration (FAA) or the Federal Communications Commission (FCC).

1605.10 Adult Businesses, subject to:

- a.** Adult businesses, as defined by this ordinance, shall not be permitted in any zoning district other than the M1 Industrial District.
- b.** An adult business shall not be located within 1,000 feet of any of the following uses: a church; public or private pre-elementary, elementary, or secondary school; public library; day-care center or nursery school; public park or residential dwelling. The distance shall be measured in a straight line from the nearest portion of the building or structure containing the adult business to the nearest property line of the premises of any of the above listed uses.
- c.** Any adult business, other than an adult motel, which exhibits on the premises in a viewing room (a separate compartment or cubicle) of less than 150 square feet of floor space, a film or videocassette or other video or image production which depicts nudity or sexual conduct shall comply with the following:

 - [1] At least one employee shall be on duty and shall be situated in each manager's station at all times that any patron is present inside the premises.
 - [2] The interior of the premises shall be configured in such a manner that there is an unobstructed view from the manager's station of every area of the premises to which any patron is permitted access for any purpose, excluding restrooms. Restrooms shall not contain video reproduction or viewing equipment. If the premises has two or more manager's stations designated, then the interior of the premises shall be configured in such a manner that there is unobstructed view of each area of the premises to which any person is permitted access for any purpose from at least one of the manager's stations. The view required by this subparagraph shall be by direct line of sight from the manager's station.
 - [3] It shall be the duty of the owners and operators and any agents and employees present on the premises to ensure that the viewing area remains unobstructed by any doors, walls, merchandise, display racks or other

material at all times and to insure that no patron is permitted access to any area of the premises which has been designated in the application submitted to the Township as an area in which patrons will not be permitted.

- [4] No viewing room shall be occupied by more than one person at a time. No connections or openings to an adjoining viewing room shall be permitted.
 - [5] The premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place in which patrons are permitted access at an illumination of not less than one foot-candle as measured at the floor level. It shall be the duty of the owners and operators and any agents and employees present on the premises to ensure that the illumination is maintained at all times that any patron is present on the premises.
 - [6] If live performances are to be given, the premises in which such live performances are to be offered shall contain a stage separated from the viewing area and the viewing area shall not be accessible to the performers.
- d.** If the adult business involves live performances, the performers shall not have easy access to the viewers present.
 - e.** The owner and operator of any adult nightclub shall provide security officers, licensed under the laws of the Commonwealth, if the maximum permitted occupancy exceeds 20 persons.
 - f.** No stock-in-trade which depicts nudity or sexual conduct shall be permitted to be viewed from the sidewalk, street or highway.
 - g.** No signs or other displays of products, entertainment or services shall be permitted in any window or other area which is visible from the street or sidewalk.
 - h.** Windows shall not be covered or made opaque in any way.
 - i.** Notice shall be given at the entrance stating the hours of operation and restricting admittance to adults only. The term "adult" shall have the meaning provided by applicable law.
 - j.** Owners and operators of adult businesses shall obtain a license to operate from the Township. In addition, such owners or operators shall supply to the Township such information regarding ownership and financing of the proposed business as

is required by the Township's licensing application. Applications for licensing shall be filed with the Township Manager.

- k.** The adult business shall be initially licensed upon compliance with all requirements of this section and provisions of the required licensing application. For each year thereafter that the adult business intends to continue, the owner or operator shall seek a renewal of the license. The application for renewal shall be submitted to the Township Manager by November 1 of the year preceding the year for which renewal is sought. The lack of license or failure to renew such license in a timely manner shall be a violation of this ordinance and shall be grounds for denial or revocation of the certificate of occupancy for the adult business.

END OF DOCUMENT

ATTEST:

TOWNSHIP OF KENNEDY

Township Manager
Gerald G. Orsini

Anthony Mollica, Chairman

APPROVED AS TO FORM:

Township Solicitor
Joseph M. Kulik, Esq.