

ZONING ORDINANCE

**MAHANoy TOWNSHIP
SCHUYLKILL COUNTY
PENNSYLVANIA**

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*SPECIAL THANKS TO JOHN HEISER, ED SLUZIS AND SHARON PAGNOTTI FOR THEIR
WORK AS COMMITTEE MEMBERS TO REVIEW THE COMPREHENSIVE PLAN AND
ZONING ORDINANCE.*

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ARTICLE 1 - GENERAL PROVISIONS

TITLE AND SHORT TITLE –

101.1 Title

101.2 Short Title - This Ordinance shall be known as, and may be cited as, “The Mahanoy Township Zoning Ordinance of 2007.”

102 Application of Ordinance - Except as hereinafter provided, no building, structure, land, or any parts thereof shall be used or occupied, erected, constructed or assembled, moved, enlarged, or structurally altered unless in conformity with the provisions of this Ordinance.

103 Purpose of the Ordinance; Statement of Community Objectives.

The purpose of this Ordinance is the implementation of the Mahanoy Township Comprehensive Plan and the promotion of the health, safety, morals, convenience, order and welfare of present and future inhabitants of the Municipality by:

1. Providing standards to control the amount of open space and impervious surfaces within a development and to control the intensity of development in areas of sensitive natural resources or natural features in order to reduce or eliminate adverse environmental impacts.

2. Providing methods to implement Article I, Section 27 of the Constitution of the Commonwealth of Pennsylvania, which decrees that the people have a right to clean air, to pure water, to the preservation of the natural, scenic, historic and aesthetic values of the environment, and to protect the natural resources which are a part of the ecological system to which we are all bound and, which is, therefore, the common property of all the people, including generations yet to come, and must be protected to insure the health, safety and welfare of all the people.

3. Providing standards for all types of dwelling units so that all the people may have access to decent, sound and sanitary housing, and to provide adequate zoning to meet a fair share of the region's housing needs.

4. Providing standards to maintain the success of the current business base and to encourage successful future business development in a harmonious and orderly fashion.

104 Minimum Standards - In the interpretation and application, the provisions of this Ordinance shall be held to be the minimum requirements adopted for the promotion of the public health, safety, morals, and/or general welfare of the residents and inhabitants of Mahanoy Township.

105 Word Usage - Words and phrases shall be presumed to be used in their ordinary context unless such word or phrase is defined differently within this section.

106 Language Interpretation - In this Ordinance, when not inconsistent with the context:

1. Words in the present tense imply also the future tense.
2. The singular includes the plural.
3. The male gender includes the female gender.
4. The word "person" includes an individual, incorporator's association, member(s) of a partnership or the officers of a corporation, as well as any similar entity.
5. The term "shall" or "must" is always mandatory.
6. The word "building" includes "structures" and shall be construed as if followed by the words "or part thereof".
7. The word "lot" includes the words, plot, parcel or tract.
8. The word "street" includes highway, road, avenue, alley and lane.
9. The word "watercourse" includes drain, ditch, stream, swale or wetland.
10. The phrase "used for" includes arranged for, designed for, intended for, maintained for and occupied for.
11. The words "includes" or "including" shall not limit the term to the specified example but is intended to extend its meaning to all instances of the kind and character.
12. The word "should" means that it is strongly encouraged but not mandatory.
13. The word "sale" shall also include rental.
14. If a word is not defined in this Chapter, but is defined in the Township Subdivision and Land Development Ordinance, the definition in the Subdivision Ordinance, as amended, shall be used.
15. Any word or term not defined in this Chapter or the Township Subdivision and Land Development Ordinance shall be used with the meaning of standard usage within the context of this Ordinance.

107 Interpretation of Ordinance provisions.

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

108 Effective Date

The provisions of this Ordinance shall be effective upon passage of this Ordinance by the Governing Body of Mahanoy Township.

ARTICLE II – DEFINITIONS

SECTION 201 - APPLICABLE DEFINITIONS

ABUT - The sharing of a common lot line by areas of contiguous lots, except not including lots entirely separated by a street or a non-intermittent waterway.

ACCESS DRIVE - A privately owned, constructed and maintained vehicular access roadway accessing more than one (1) dwelling unit, commercial or industrial use. See also "driveway."

ACCESS POINT - See "Highway Access Point."

ACCESSORY STRUCTURE - A structure, such as a private garage or private swimming pool, serving a purpose customarily incidental to the use of the principal building and located on the same lot as the principal building.

ACCESSORY USE - A use conducted on the same lot as a principal use to which it is related and located either within the same structure or in an accessory structure or as an accessory use of land; a use which is clearly incidental to, and customarily found in connection with a particular principal use.

ACT AND/OR ACT 247 - The Pennsylvania Municipalities Planning Code, Act 247 of 1968, as amended, or its successor legislation.

ADJACENT- Includes contiguous lots that share a common lot line or that are separated by a street or waterway.

ADMINISTRATIVE OFFICER - See "Zoning Officer."

ADULT DAY-CARE CENTER - A use that involves the care and supervision of persons who are primarily over age seventeen (17); who are physically handicapped, elderly or are mentally retarded; and that clearly primarily involves care for periods of less than eighty (80) hours per person during the average seven (7) day period.

ADULT ORIENTED FACILITY - An establishment open to the general public or a private club open to members except persons under the age of eighteen (18) years, which is used and occupied for one (1) or more of the following activities:

ADULT BOOKSTORE - An establishment in which five percent (5%) or more of the occupied sales or display area offers for sale, for rent or lease, for loan, or for view upon the premises, pictures, photographs, drawings, prints, images, sculpture, still film, motion

picture film, video tape, or similar visual representations distinguished or characterized by an emphasis on sexual conduct or sexually explicit nudity, or books, pamphlets, magazines printed matter or sound recordings containing explicit and detailed descriptions or narrative accounts distinguished or characterized by an emphasis on sexual conduct, or offers sexual devices for sale.

An establishment in which less than five percent (5%) of the occupied sales area offers for sale, for rent or lease, for loan, or for view upon the premises, such items, as described above, shall not be regulated as an Adult Regulated Facility, provided that the items are kept out of public view and not sold to persons under eighteen (18) years of age.

ADULT CABARET - An establishment, club, tavern, restaurant, theater or hall which features live entertainment distinguished or characterized by an emphasis on sexual conduct or sexually explicit nudity.

ADULT MASSAGE PARLOR - An establishment whose business is the administration of massage to the anatomy of patrons regardless whether or not the same includes sexual conduct, but shall exclude services provided by a medical practitioner, chiropractor, physical or message therapist licensed by the Commonwealth of Pennsylvania. Excluded also are health clubs, schools, spas, athletic clubs or similar establishments where massage or similar manipulation of the human body is offered as an incidental or accessory service.

ADULT MOVIE THEATER - An enclosed or unenclosed building or structure, including but not limited to a pavilion, tent or other outdoor exhibition facility, a portion or all of which is used for presenting motion pictures, slides or video tape disks or similarly reproduced images distinguished or characterized by a significant emphasis on matter depicting human sexual activities for observation by persons therein. This shall include but not be limited to any theater that shows any one (1) or multiple motion pictures that have received a rating of "X" or successor rating from the Motion Picture Association of America or its successor organization.

ADVERTISING SIGN - See "Sign, Advertising."

AGRICULTURAL LAND - The use of land or manmade bodies of water for the growing and/or production of field crops, livestock and livestock products, fish, or other aquaculture products for the production of income, including but no limited to the following:

1. Field crops, including barley, soybeans, corn, hay, oats, potatoes, rye, sorghum and sunflowers

2. Livestock, including dairy and beef cattle, goats, horses, sheep, hogs, poultry, game birds and other animals, excluding dogs.
3. Livestock products, including milk, butter, cheese, eggs, meat, fur and honey.
4. Fish or other aquatic life for the production of income.
5. Forestry.

AIRPORT OR AIRSTRIP - An area of land which is designated, used or intended to be used for the landing and take off of airplanes or ultra-light aircraft, and any appurtenant areas which are designed to be used for airplane support facilities such as maintenance, refueling, storage and maintenance, accommodations and amenities for passengers and facilities for administrative services related to the permitted uses thereof.

ALLEY - A minor way, which may or may not be legally dedicated, and is used primarily for vehicular service access to the rear and/or side of properties otherwise abutting a street. An alley is not intended for general traffic circulation.

ALTERATIONS, STRUCTURAL - Any change or rearrangement of supporting members of a building or structure such as bearing walls, columns, beams or girders, joists or rafters, enclosing walls, or an enlargement, whether by extending on a side or by increasing in height, or the moving from one location or position to another.

ANIMAL HOSPITAL - A building routinely used for the treatment and the accessory housing or boarding of animals. A "small animal hospital" includes treatment of small domestic animals including but not limited to dogs, cats, rabbits, birds or fowl. A "large animal hospital" may include treatment of all types of animals, including horses, cows and pigs.

ANIMAL HUSBANDRY - The raising and keeping of livestock, poultry or insects for commercial purposes, or any keeping of animals for any reason beyond what is allowed in a permitted stable or kennel or under the keeping of pets. "Animal Husbandry" also shall not include a bulk commercial slaughterhouse or a central commercial stockyard for animals awaiting slaughter.

APARTMENT - A single dwelling unit in a multiple dwelling structure, not including conversion apartments.

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

AREA - The extent of surface contained within the boundaries or extremities of land or building.

AUDITORIUM - An area or structure involving indoor or outdoor seating for meetings, live performances or sports events, but not including a movie theater, adult cabaret or tavern.

AUTO REPAIR GARAGE - Building(s) and/or land where major repairs of motor vehicles are conducted. This use may also include retail sales of gasoline and auto parts and the storage of vehicles being currently serviced. Major repairs include major mechanical and body work,

straightening of body parts, painting, welding, storage of automobiles not in operating condition or other work involving noise, glare, fumes, smoke or other characteristics to an extent greater than normally found in service stations. For the purposes of this Chapter, this shall also include closely similar repairs of boats.

AUTO SERVICE STATION - Buildings and land areas where gasoline, oil, grease, batteries, tires or automobile accessories are supplied and dispensed at retail, which use may include making minor incidental repairs. This use shall not include major mechanical work, bodywork, straightening of body parts, painting, welding or other work involving noise, glare, fumes, smoke or other noxious characteristics.

AUTO, BOAT AND/OR MODULAR/MANUFACTURED HOME SALES - A building or area, other than street, used for the display, sale or rental of new or used motor vehicles, recreation vehicles, boat trailers, farm equipment, motorcycles, trucks, utility trailers, boats or transportable mobile/manufactured homes in operable condition. Any major repair work shall be considered as a separate accessory or principal use. This use shall not include a mobile/manufactured home park or a junkyard. Outside storage and display of motor vehicles, boats or manufactured homes shall be a permitted accessory use.

BASEMENT - Any area of a building having its floor below grade level on all sides.

BED AND BREAKFAST - The use and occupancy of a single-family detached dwelling for accommodating transient guests for rent within the other requirements of this ordinance.

BILLBOARD - Any structure or portion thereof upon which are signs or advertisements used on an outdoor display. This definition does not include any bulletin boards used to display official court or public office notices or signs advertising the sale or lease of the premises on which the sign is located.

BLOCK - A tract of land bounded by streets; a public park; railroad right-of-way, excluding siding and spurs; and/or corporate boundary lines of the Township.

BOARD - Any body granted jurisdiction under a land use ordinance or under Act 247 to render final adjudication. See also "Zoning Hearing Board."

BUFFER YARD - A strip of land separating a land use from another land use or feature and which is free of any principal or accessory building, parking, outdoor storage or any use other than open space or concrete sidewalks. A buffer yard may be a part of the minimum setback distance but may not include an existing or future street right-of-way.

BUILDING - Any enclosed or open structure, other than a boundary wall or fence, occupying more than four (4) square feet of area.

BUILDING, ACCESSORY - A subordinate building, the use of which is customarily incidental to that of the principal building, which is used as an accessory use and which is located on the same lot.

BUILDING, ATTACHED - A building that has two (2) or more party walls.

BUILDING, DETACHED - A building which has no party wall and which is surrounded on all sides by areas open to the sky.

BUILDING, PRINCIPAL - A building in which is conducted the principal use of the lot on which it is located.

BUILDING, SEMI-DETACHED - A building which has only one (1) party wall and which is not attached to more than one (1) building.

BUILDING AREA - The area of ground covered by a building.

BUILDING COVERAGE - The percentage of the total area of the ground of a lot covered by all buildings on the lot.

BUILDING HEIGHT - The vertical distances measured from the sidewalk level or its equivalent established grade opposite the middle of the front of the building to the highest point of the roof in the case of a flat roof; to the deck line of a mansard roof; and to mean highest level between eaves and ridge of a gable, hip or gambrel roof; provided that, where buildings are set back from the street line, the height of the building may be measured from the average elevation of the finished lot grade at the front of the building.

BUILDING LENGTH - The horizontal measurement between the two (2) most distant portions, other than portions measured diagonally, of any one (1) building or of the total of two (2) or more attached buildings.

BUILDING LINE - A line parallel to the front, side and/or rear lot line demarcating the required yard.

BUILDING SETBACK LINE - A line within a lot, designated on a plan as the minimum required distance between any structure and the right-of-way line as specified by any applicable Zoning Article.

BUILDING, WIDTH - The horizontal measurement between the furthest portions of two (2) structural walls of one (1) building that are generally parallel, measured in one (1) general direction that is most closely parallel to the required lot width. For a townhouse, this width shall be the width of each individual dwelling unit.

BULK - The cubic volume of a building.

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

CAMPGROUND - A parcel of land used for seasonal, recreational or other similar temporary living purposes in cabins, tents, recreational vehicles, or shelters, but not including a mobile home park.

CAR WASH - A structure used for the purposes of cleaning or reconditioning the exterior and interior surfaces of automotive vehicles, but not including an incidental one-bay hand-washing facility in a gasoline service station where washing facilities are purely incidental to the operation of said service station. A "car wash" may include a use that involves attendants or that is automated.

CARPORT - An open space for the storage of one (1) or more vehicles in the same manner as a private garage. Any "carport" covered by a permanent roof shall be considered a building. If the permanent roof is attached to the principal building, it shall be considered to be part of that building.

CARTWAY - The paved area of a street used for motor vehicle traffic and permitted on-street parking, but not including shoulders, curbs, sidewalks or swales.

CEMETERY - Land used or intended to be used for the burials of deceased humans, including a crematorium or mausoleum when operated in conjunction with a cemetery and within its boundaries.

CERTIFICATE OF OCCUPANCY - A statement signed by a duly authorized Zoning Officer setting forth that a building, structure or use, to the best knowledge of such official, legally complies with the Zoning Ordinance, and other applicable codes and regulations and that the same may be used for the purposes stated therein.

CHILD NURSERY SCHOOL - See "Day Care Center."

CHURCH - See "Place of Worship."

CLEANING - A function involving the restoration of materials, structures, goods or products to a more pure, less contaminated, less adulterated or less blemished condition.

COMMERCIAL COMMUNICATION ANTENNA - Any device that is designed and/or adaptable for mounting on pre-existing structures, for example, nonresidential buildings or water towers, and used for the transmission, retransmission or reception of electronic signals or information for commercial use.

COMMERCIAL COMMUNICATION TOWER - Any pole, tower, tripod, telescoping mast, or any other structure, not to include a building or water tower, which supports a device used for the transmission, retransmission or reception of electronic signals or information for commercial use.

COMMERCIAL DISTRICT - Includes the C-1 District.

COMMERCIAL VEHICLE - A motor vehicle that meets both subsections (A) and (B):

- A. Is used primarily for making service calls, transporting materials used in a business or accomplishing physical work as part of a business, such as hauling material; and
- B. Has a gross weight exceeding eight thousand five hundred (8,500) pounds or has greater than two (2) axles.

COMMISSION - The Planning Commission of Mahanoy Township..

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

COMMUNITY CENTER - A noncommercial use that exists solely to provide recreational and educational activities and programs to the general public or certain age groups. The use also may include the noncommercial preparation and/or provision of meals to low-income and/or elderly persons.

COMMUNITY RESIDENTIAL PROGRAM - An establishment, sometimes referred to as a community living arrangement or a group home, licensed by the Commonwealth of Pennsylvania, that provides a home for not more than eight (8) handicapped individuals, excluding staff who do not reside on the property, who live and cook together as a single housekeeping unit. This definition shall not include a facility housing persons released from or under the jurisdiction of a government bureau of corrections or similar institution.

"Handicapped" means, with respect to a person:

- A. A person with a temporary or permanent physical, emotional, or mental disability including but not limited to mental retardation, cerebral palsy, epilepsy, autism, hearing and sight impairments, emotional disturbances and orthopedic impairments;
- B. A record of having such an impairment; or
- C. Being regarded as having such impairment, but such term does not include current, illegal use of or addiction to a controlled substance (as defined in Section 102 of the Controlled Substance Act [21 U.S.C. ? 802]).

COMMUNITY WATER SUPPLY - A utility operated by a municipality or other legal entity that supplies potable, domestic water for use by more than one household, business or institution.

COMPREHENSIVE PLAN - The official public document prepared in accordance with the Pennsylvania Municipalities Planning Code, Act 247 of 1968, as reenacted and amended by Act 170 of 1988, and as subsequently amended, consisting of maps, charts and textual material, that constitutes a policy guide to decisions about the physical and social development of the Township.

CONDITIONAL USE - A use permitted in a particular zoning district only upon approval by the governing body pursuant to the express standards and criteria set forth in this Ordinance and

such conditions as may be attached to such approval authorized herein and under the Municipalities Planning Code.

CONDOMINIUM - Real estate, portions of which are designated for separate ownership and the remainder of which is designated for common ownership solely by the owners of those portions, created under either the Pennsylvania Unit Property Act of 1963 or the Pennsylvania Uniform Condominium Act. To ensure adequate provision for maintenance of roads and shared facilities, development of condominiums or conversion of an existing development into condominiums shall always be treated as a subdivision and land development.

CONVENIENCE STORE - Any retail establishment offering for sale prepackaged food products, household items, energy products and other goods commonly associated with the same. Convenience stores shall include the dispensing of gasoline or other vehicular fuel products.

CONVENIENCE STORE, NEIGHBORHOOD - See "Neighborhood Convenience Store."

COOPERATIVE HOUSING - A multiple-unit land development in which there is a system of separate ownership of individual units of occupancy and undivided interest of land and common facilities.

CORNER LOT - See "Lot, Corner."

COUNTY - The County of Schuylkill, Pennsylvania.

CRAFTSMAN SHOPS - Small public service shops including plumbing, heating, carpentry, machine shop, tinner's shop, cabinet making, furniture repair, upholstery, painting, sign painting or other similar small shop. Not including welding.

CULTURAL CENTER - A building and/or land open to the public that contains exhibits of clearly artistic or cultural interest, such as a museum, art gallery or indoor nature study area.

DAY CARE CENTER - A use involving the supervised care of children outside of their home under age sixteen (16) and elderly persons. This use may also include educational programs that are supplementary to state-required education.

DEDICATION - The deliberate appropriation of land by its owner for general public use.

DEED - A written instrument whereby an estate in real property is conveyed.

DEED RESTRICTION - A restriction upon the use of property placed in a deed.

DENSITY - The lot area divided by the number of dwelling units on the lot, unless otherwise stated.

DEP - The Pennsylvania Department of Environmental Protection, or its successor and its relevant parts.

DETENTION BASIN - A reservoir that temporarily contains stormwater runoff and gradually releases it into a watercourse or stormwater facility.

DISTRIBUTION - A process whereby materials, goods and products are received, sorted, stored and re-transported to other locations. Such use shall not include warehouses as defined in this Chapter.

DISTRICT OR ZONING DISTRICT - A portion of the territory of the Township within which certain uniform regulations and requirements or various combinations thereof apply under the provisions of this Ordinance.

DRAINAGE EASEMENT - The land required for the installation of storm sewer or drainage facilities, or required along a natural stream or watercourse for preserving the channel and providing for the flow of water therein, or to safeguard the public against flood damage.

DRIVEWAY - A privately owned, constructed and maintained vehicular access from a street or access drive to one (1) dwelling unit, commercial unit or industrial use. See also "access drive."

DUMP - Any lot of land, or part thereof, used for the disposal, by abandonment, dumping, burial, burning or other means, and for whatever purpose, of garbage, sewage, trash, refuse, junk, discarded machinery vehicles, or parts thereof, or waste material of any kind that does not operate under a sanitary landfill permit issued by DEP and that does not meet the definition and requirements of a junkyard.

DUMPSTER - A container generally two or more cubic yards in capacity, for the disposing of refuse, whether residential, commercial or industrial.

DWELLING - A house, apartment building or other building, including a mobile home, designed or used primarily for human habitation. The word "dwelling" shall not include boarding - or rooming houses, hotels, motels, tents, trailers or any structure designed or used for transient residence (see also "Building").

- A. **DWELLING, ATTACHED** - A portion of a building containing one dwelling unit, and having two party walls in common with other dwelling units (such as row houses or townhouses). Each dwelling unit is located on a separate lot.
- B. **DWELLING, DETACHED** - A building used by one (1) family, having only one (1) dwelling unit and having two (2) side yards.
- C. **DWELLING, MULTIPLE FAMILY** - A building or portion thereof designed for occupancy by three (3) or more families living independently of each other.
- D. **DWELLING, ROW** - A row of three to six attached one-family dwellings, not more than two (2) stories in height.
- E. **DWELLING, SEMI-DETACHED** - A portion of a building containing one (1) dwelling unit, having one (1) side yard and having one (1) party wall in common with another dwelling unit. Each dwelling unit is located on a separate lot.
- F. **DWELLING, SINGLE FAMILY** - A building designed exclusively for occupancy by one family.

G. **DWELLING, TWO FAMILY** - A building designed exclusively for occupancy by two (2) families living independently of each other.

H. **DWELLING UNIT** - One (1) or more rooms in a dwelling or apartment hotel designed primarily for occupancy by one (1) family for living or sleeping purposes.

EASEMENT - A right-of-way granted for limited use of property by the landowner for a public or quasi-public purpose and within which the owner of the property shall not have the right to make use of the land in a manner that violates the right of the grantee.

EMPLOYEE - The highest number of compensated workers, including both part-time and full-time, present on a lot at any one (1) time during the average week.

ENGINEER - A professional engineer licensed as such in the Commonwealth of Pennsylvania, duly appointed as the engineer for the Municipality.

ELEVATION - The horizontal alignment of a surface, as it exists or as it is made by cut and/or fill.

A. **FLOOR ELEVATION** - The elevation of the lowest level of a particular building, including the basement.

B. **ROAD GRADE** - The rate of rise and fall of a road's surface, measured along the profile of the centerline of the cartway (See also "Road Grade").

FAMILY -

A. An individual or married couple and the children thereof with not more than two other persons related directly to the individual or married couple by blood or marriage; or

B. A group of unrelated persons, excluding servants, living together as a single housekeeping unit in a dwelling unit shall not to include more than three (3) unrelated persons.

FARM STRUCTURE - A structure that is principally used for agricultural activities. Such structures may include a farm dwelling and accessory uses, buildings and structures.

FEMA - The Federal Emergency Management Agency.

FENCE - A human-made barrier placed or arranged as a line of demarcation between lots or to enclose a lot, or portion thereof, that is constructed of wood, wire mesh, chain-link metal or chain-link aluminum and/or plastic inserts. Human-made barriers constructed principally of other materials including, but not limited to, brick, concrete or cinder block, shall be considered a "wall." The term "wall" does not include engineering retaining walls, which are permitted uses as needed in all districts. The terms "fence" and "wall" do not include barriers of landscaped materials, including hedges.

FINANCIAL INSTITUTION - An establishment primarily involved with loans and monetary, not material, transactions and that has routine interactions with the public, including banks, savings and loan, finance companies and credit unions.

FITNESS AND HEALTH CENTER - A facility that offers indoor or outdoor recreational facilities, such as the following: weight room, exercise equipment, cardiovascular exercise classrooms, non-household pool, racquetball courts and instruction for these activities.

FOOD PREPARATION FACILITY - The act of making food ready or preparing food for processing, wholesale purposes only.

FOOD PROCESSING FACILITY - Involves the steps necessary to provide food goods to the general public on a wholesale scale only.

FLOOD - A temporary inundation by water of normally dry land areas.

FLOOD FRINGE - The portion of the flood plain outside the floodway, as defined by the Federal Emergency Management Agency.

FLOOD PLAIN - A relatively flat or low land area adjoining a river stream or watercourse which is subject to partial or complete inundation; or an area subject to the unusual and rapid accumulation or runoff of surface waters from any source.

FLOOD PLAIN DISTRICT - The area designated by the FEMA maps as being inundated by a one-hundred-year flood, including the floodway (FW), the Flood Fringe (FF) and Flood Plain (FP).

FLOODWAY - The designated area of a flood plain required to carry and discharge floodwaters of a given magnitude. For the purposes of this Ordinance, the floodway shall be capable of accommodating a flood of the one-hundred-year magnitude.

FLOOR AREA - The sum of the gross habitable area of the several floors of a building or buildings measured from the interior face of exterior walls or from center lines of walls separating two (2) buildings with each room to have at least one half of the floor area with a ceiling height of not less than seven (7) feet. In particular, "floor area" includes but is not limited to the following:

- A. Basement space, if it meets the requirements of a building story.
- B. Elevator shafts, stairwells and attic space, whether or not a floor has been laid, providing structural headroom of eight (8) feet or more.
- C. Roofed terraces, exterior balconies, breezeways or porches, provided that over fifty percent (50%) of the perimeter of these is enclosed.
- D. Any other floor space used for dwelling purposes, no matter where located within the building.
- E. Accessory buildings, excluding space used for accessory off-street parking or used for loading berths.

- F. Any other floor space not specifically excluded, excluding space used for air-conditioning machinery or cooling towers and similar mechanical equipment serving the building.

FLOOR AREA RATIO - The maximum amount of floor area based upon the number of floors divided by the net site area.

FRONTAGE - All property on one (1) side of a street between two (2) intersecting streets or natural barriers.

GARAGE (PRIVATE OR HOUSEHOLD) - An enclosed building for the storage of one (1) or more motor vehicles. No business, occupation or service shall be conducted in a private garage that is accessory to a residence, except as may be allowed as a home occupation.

GARAGE SALE - Any temporary sale conducted where tangible personal property is offered for sale in or out of any building or structure; also commonly referred to as "yard sales."

GARDEN - The cultivation of herbs, fruits, flowers or vegetables, excluding the keeping of livestock.

GLARE - A sensation of brightness within the visual field that causes annoyance, discomfort or loss in visual performance, visibility and/or ability to focus.

GOVERNING BODY - The Board of Supervisors of Mahanoy Township, Schuylkill County Pennsylvania.

GROUP HOME - A use involving the residence of persons who need support services and who reside in a family-like residential environment. This shall only include a use licensed or certified under an appropriate state program. The residents are intended to be persons who might otherwise be confronted with institutionalization. Group homes shall be limited to persons needing special care and oversight because of physical illness or infirmity, age, physical disability, mental illness that is not criminal in nature, mental retardation, mental handicap or emotional disability that is not criminal in nature.

GROUP HOUSING - A residential use in which individual room(s) that do not meet the definition of a dwelling unit are rented for habitation routinely for periods of thirty (30) days or longer and that does not meet the definition of a hotel, motel, life care center, personal care center, bed and breakfast use, group home or nursing home.

HAZARDOUS WASTE - Those wastes where significant potential exists for causing adverse public health or environmental impacts if the waste is handled, stored, transported, treated or dispensed of in a manner customarily accepted for ordinary solid wastes. This also includes wastes subject to special state or federal licensing or regulation, including but not limited to through the Pennsylvania Solid Waste Management Act.

HEIGHT - The vertical distance measured from the average elevation of the average proposed surrounding ground level to the highest point of a structure.

HIGHWAY ACCESS POINT or ACCESS POINT - One (1) combined ingress/egress point, or one (1) clearly defined ingress point separated from another clearly defined egress point onto or from a public street.

HISTORIC FEATURE or HISTORIC STRUCTURE - Any building, site, structure, object, district or area that:

- A. Is listed on the National Register of Historic Places;
- B. Has received a determination of eligibility for the National Register from the National Park Service;
- C. Which is located within the historic district of Mahanoy Township, as designated by the Pennsylvania Historic and Museum Commission; or
- D. Which is listed on any officially adopted municipal register or inventory of historic features.

HOME OCCUPATION - Any use customarily conducted entirely within the dwelling and carried on by the inhabitants thereof, which use is clearly incidental and secondary to the use of the dwelling for dwelling purposes and does not change the character thereof; and provided that no article is sold or offered for sale except such as may be produced on the premises by members of the immediate family. Clinics, doctors' offices, hospitals, barber shops, beauty parlors, dress shops, millinery shops, real estate offices, tearooms, group housing, animal hospitals and kennels, among others, shall not be deemed to be "home occupations."

HOSPITAL - A use that involves the diagnosis, treatment or other medical care of humans that includes care requiring stays overnight and that may also include outpatient care. A medical care use that does not involve stays overnight shall be considered a "medical office or clinic." A hospital may involve care and rehabilitation for medical, dental or mental health, but shall not primarily include housing of the criminally insane nor primarily involve housing or treatment of persons actively charged with or serving a sentence after being convicted of a felony. A "hospital" may also involve medical research and training for health care professions.

HOTEL - See "Motel."

HOUSEHOLD ANTENNA - An antenna which serves the property on which it is located and is used for receiving electronic signals or for the routine reception of television, short-wave amateur or citizen's band radio signals, and that does not meet the definition of a commercial communications tower or satellite antenna and that has a maximum height of sixty-five (65) feet.

IMPERVIOUS SURFACE - Any area covered by a structure, paving or other human-made cover which has a coefficient of runoff of 0.65 or greater, as determined by the Township Engineer. Area required to be left in pervious surfaces may be located in a different zoning district than the use, provided that such land area is abutting or adjacent and that is deed

restricted from further development. The "maximum impervious coverage" shall be the total area of impervious surfaces divided by the total lot area.

IMPROVEMENTS - Physical changes to the land, including but not limited to grading, paving, curbs, gutters, storm sewers and drains, improvements to existing watercourses, sidewalks, street signs, monuments, water supply facilities, sewage collection facilities and streetlights.

INTERIOR CIRCULATION - The pattern of traffic within a parking lot or similar paved area.

JUNK VEHICLE -

- A. A motor vehicle, recreational vehicle, trailer or truck, or the chassis or body of such vehicle, that does not meet at least two (2) of the following three (3) conditions:
 - 1. Does not display a license plate with a current state registration sticker.
 - 2. Does not have a valid state safety inspection sticker.
 - 3. Cannot be immediately operated on a public street.
- B. Also, any motor vehicle that has been demolished beyond reasonable repair shall be considered a "junk vehicle".

JUNK YARD - An area of land with or without buildings, including land inside a building not completely enclosed, used for the storage of used and discarded materials, including but not limited to waste paper, rags, metal, building materials, house furnishings, machinery, vehicles or parts thereof, with or without the dismantling, processing, salvage, sale or other use or disposition of the same. The deposit or storage on a lot of two (2) or more unlicensed or wrecked vehicles, or the major part thereof, shall be deemed to constitute a "junkyard," except as is permitted as an auto sales use, auto repair garage or auto service station.

KENNEL - An establishment in which more than four (4) dogs, or six (6) cats or other domesticated animals, older than six (6) months are housed, groomed, bed, boarded, trained or sold.

LAND DEVELOPMENT - Any of the following activities:

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

LANDLORD – One (1) or more persons, jointly or severally, in whom is vested all or part of the legal title to the premises, or all or part of the beneficial ownership and a right to present use and enjoyment of the premises including a mortgage holder in possession of a rental unit (SEE ALSO: "Owner Agent.")

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

LIFE CARE CENTER - A form of residential use designated and operated exclusively for adults fifty-five (55) years of age or older and/or disabled persons, that includes a nursing home and certain limited support facilities intended specifically to serve the needs of these residents.

LODGING HOUSE - A building with not more than five (5) guest rooms where lodging is provided for compensation pursuant to previous arrangement but not open to the public or transients.

LOT - A designated parcel, tract or area of land established by a plat or otherwise as permitted by law and to be used, developed or built upon as a unit.

LOT AREA - The area contained within the property lines of the individual parcel of land, excluding space within the street right-of-way. The "lot area" includes the area of any utility easement or stormwater management facility but does not include the flagpole of a flaglot, unless otherwise specified in this Ordinance.

LOT, CORNER OR MULTIPLE FRONTAGE LOT - A lot bounded on two (2) or more sides by streets whenever the lines of such streets, or such lines as extended, form an interior angle of one hundred thirty-five (135°) degrees or less. Corner lot or multiple frontage lots for the purposes of this Ordinance will be considered as having two (2) front and two (2) side yards.

LOT COVERAGE - A percentage which when multiplied by the lot area will determine the permitted area that can be covered with an impervious surface which includes but is not limited to buildings, driveways, parking areas and sidewalks.

LOT DEPTH - The average horizontal distance between the front and rear lot lines measured in the mean direction on the side lot lines.

LOT FRONTAGE - That boundary of a lot along the public street and, for a corner lot, the shorter lot boundary along a street.

LOT INTERIOR - A lot other than a corner lot.

LOT LINE MARKER - A metal plate or pin or railroad spike or concrete monument used to identify the lot line intersections or corners.

LOT WIDTH - The average distance between the side lot lines of a lot, measured parallel to the right-of-way.

MANAGER - The Business Manager of the Township of Mahanoy.

MANUFACTURE - A function involving the processing, assembly, finishing, polishing, repair, testing, packaging or production of materials, goods or products.

MANUFACTURED HOME - A structure, transportable in one (1) or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. A manufactured home shall not be considered to be any other type of dwelling use or structure under this Ordinance. For flood plain management purposes, this term also includes trailers and other similar vehicles placed on a site for greater than one hundred eighty (180) consecutive days.

MASSAGE - The performance of manipulative exercise on a human body by another person that involves the hands and/or mechanical device.

MASSAGE PARLOR - A commercial establishment in which the principal use consists of massage and/or bodywork conducted by persons other than massage therapists and which use does not constitute accessory massage.

MASSAGE THERAPIST - A person holding a valid massage license issued by the Commonwealth of Pennsylvania or absent such licensing procedure, satisfying either of the following criteria:

- A. Has graduated from a school licensed by the Commonwealth of Pennsylvania, or by another state of the United States, which requires at least 500 hours of education in massage and/or bodywork techniques, anatomy and physiology, and who is a member of a nationally recognized professional organization for massage and/or bodywork therapists that adheres to a code of ethics; or
- B. Holds current and valid certification from the National Certification Board of Therapeutic Massage and Bodywork (NCBTMB).

MASSAGE THERAPIST BUSINESS - A commercial establishment in which the principal use consists of massage and/or bodywork conducted solely by massage therapists.

MASSAGE, ACCESSORY - Massage that is a customary and accessory use to a medical office, physical rehabilitation clinic or a permitted noncommercial use such as public or private school, college or university athletics. The term also includes massage by a massage therapist as an accessory use to a permitted fitness and health center or similar facility. Accessory massage is permitted solely when accessory to an accompanying permitted principal use.

MATERIALS - Articles which are components of a future product.

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

MEDICAL OFFICE OR CLINIC - A use involving the treatment and examination of patients by state-licensed physicians or dentists, provided that no overnight patients shall be kept on the premises. This use may involve the testing of tissue, blood or other human materials for medical or dental purposes.

MEMBERSHIP CLUB - An area of land or building used by a recreational, civic, social, fraternal, religious, political or labor union association of persons for meetings and routine socializing and recreation that are limited to members and their occasional guests, but not including members of the general public. This use shall not include a target range for outdoor shooting, group housing, a tavern, restaurant open to the general public or an auditorium unless that particular use is permitted in that district and the applicable requirements of that use are met.

METAL FABRICATING - To make, build, construct or manufacture any part by welding, grinding, heavy punching or pressing machines, drop forges, riveting machines and the like.

MID-RISE APARTMENTS - Three (3) or more dwelling units within a building that is higher than thirty-five (35) feet or three and one-half (3½) stories, whichever is less.

MINERAL EXTRACTION - Includes all activity that removes from the surface or beneath the surface of the land some bulk mineral resources by means of mechanical excavation. "Mineral extraction" includes, but is not limited to, the excavation necessary to the extraction of sand, gravel, topsoil, limestone, sandstone, coal, clay, shale and iron ore. The routine excavation, movement, and replacement of topsoil or subsoil during construction shall not by itself be considered to be mineral extraction.

MOBILE HOME - See "Manufactured Home."

MODULAR HOME - A type of dwelling that meets a definition of single-family detached dwelling, single-family semi-detached dwelling, townhouse or multiple family dwelling that is in substantial part but not wholly produced in sections off the site and then is assembled and completed on the site. This shall not include any dwelling that meets the definition of mobile/manufactured home, nor shall it include any dwelling that does not rest on a permanent foundation, nor any dwelling intended to be able to be moved to a different site once assembled, nor any dwelling that would not fully comply with any and all applicable building codes. A modular home also shall not include a home that includes only one (1) substantial piece prior to delivery on the site.

MOTEL or HOTEL - A building or a group of buildings, having units containing sleeping accommodations which are available for a temporary, rental occupancy by transients routinely for periods shorter than seven (7) consecutive days.

MUNICIPAL ENGINEER - See "Engineer."

MUNICIPAL GOVERNING BODY - The Board of Supervisors of Mahanoy Township.

MUNICIPAL USE - A use owned by Mahanoy Township for a governmental purpose. This shall also include an emergency services station, if such station located is approved by the Governing Body.

MUNICIPALITIES PLANNING CODE - The Pennsylvania Municipalities Planning Code, Act 247 of 1968, as amended, or its successor legislation. (See also "Act 247")

MUNICIPALITY - Mahanoy Township, Schuylkill County Pennsylvania.

NEIGHBORHOOD CONVENIENCE STORE - A store which offers the retail sale of household goods, supplies and pre-packaged or canned foods to the general public residing in the surrounding neighborhood, provided that the total area devoted to such use shall not exceed two thousand five hundred (2,500) square feet of gross retail space. The sale of gasoline or other petroleum fuel products is prohibited.

NON-CONFORMING LOT - A lot, the area or dimensions of which was lawful prior to the adoption or amendment of the 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.

NON-CONFORMING USE - A use, whether of land or of building or structure, which does not comply with the applicable use provisions in this Ordinance or amendment hereafter enacted, where such use was lawfully in existence prior to the application of the Ordinance or amendment to its location by reason of annexation.

NURSING HOME OR CONVALESCENT HOME - A building with sleeping rooms where persons are housed or lodged and furnished with meals, nursing care for hire and which is approved for nonprofit/profit corporations licensed by the Pennsylvania Department of Public Welfare for such use.

OFFICE - A use that involves administrative, clerical, financial, governmental or professional operations or operations of a similar character. This use shall not include retail or industrial uses, but may include business, governmental, professional, medical or dental offices and medical or dental clinics or medical or dental laboratories, photographic studios and/or television or radio broadcasting studios.

OFFICE BUILDING - A building used primarily for office purposes.

OFFICIAL MAP - An ordinance adopted and amended from time to time pursuant to the Pennsylvania Municipalities Planning Code by the Mahanoy Township Board of Supervisors containing a drawing or drawings that show their precise location of future road rights-of-way or lands to be publicly acquired either through purchase or dedication, and which is used to facilitate the proper placement of structures in relation to future property lines.

OFFICIAL STREET CLASSIFICATION MAP - Any map that may be officially adopted by the Governing Body classifying streets in the Township by their function. (See also "Street Classification").

ONE-HUNDRED-YEAR FLOOD - A flood that, on the average, is likely to occur one time in a one-hundred-year period.

OPEN SPACE, COMMON - A parcel or parcels of land, or an area of water or a combination of land and water within a tract which is not occupied by streets, buildings or off-street parking and that is designed, intended and suitable for active or passive recreation by residents of a development or the general public.

ORDINANCE - The Mahanoy Township Zoning Ordinance, including the Official Zoning Map and any amendments enacted by Governing Body.

OUTDOOR DINING AREA - A dining area, associated with a restaurant or fast food restaurant that is located outside of the building or structure that prepares the meal. This can include canopies, picnic areas, sidewalk areas and fenced in rear yards.

OWNER - An individual, firm, association, syndicate, partnership, corporation or any other legal entity having proprietary interest in the land sought to be subdivided and developed to commence and maintain proceedings to subdivide the same under this Chapter.

OWNER AGENT - An individual or firm designated by the owner of real property, in writing, to the Municipality, who shall be legally responsible for the operation of the rental property in compliance with all of the provisions of the codes and ordinances of the Municipality and the Commonwealth of Pennsylvania and who shall be responsible for providing legal access to the property for the purposes of making inspections of said premises to ensure compliance with said Ordinance(s) and laws.

PARCEL - See "Lot."

PARKING SPACE - An off-street space available for the parking of one (1) motor vehicle and having direct usable access to a street or lane.

PAVED AREA - That portion of a lot that is covered with a hard surface material, including asphalt, cement, adhered gravel or other impervious surface, but not including, required public concrete sidewalks, curbs or cartways and shoulders of public streets.

PEDESTRIAN WAY - A right-of-way, publicly or privately owned, intended for human movement by walking.

PENNDOT - Pennsylvania Department of Transportation, or its successor, and its subparts.

PENNSYLVANIA MUNICIPALITIES PLANNING CODE - The Pennsylvania Municipalities Planning Code, Act 247 of 1968, as amended, or its successor legislation. (See also "Act 247".)

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

PERSONAL SERVICE - An establishment that provides a service oriented to personal needs of the general public, which do not involve primarily retail sales of goods or does not involve professional advisory services. Personal services include barber and beauty shops, shoe repair shops, household appliance repair shops and other similar establishments, but shall not include, a massage parlor.

PLACE OF WORSHIP - A building used for public worship by a congregation, excluding buildings used exclusively for residential, education, burial, recreational or other uses not normally associated with worship.

PLAN - A drawing, together with supplementary data, that describes property.

PLANNED MIXED USE BUSINESS PARK - An area of land controlled by a single landowner and developed as a single entity for a number of industrial, commercial, retail and distribution firms.

PREPARED FOODS - Foodstuffs and/or drinks that have been cooked, changed, cleaned or otherwise altered for public consumption.

PRINCIPAL BUILDING - The building in which the principal use of a lot is conducted. Any building that is physically attached to a "principal building" shall be considered part of that "principal building."

PRIVATE GARAGE (or HOUSEHOLD GARAGE) - An enclosed building for the storage of one (1) or more motor vehicles. No business, occupation or service shall be conducted in a private garage that is accessory to a residence, except as may be allowed as a home occupation.

PROCESSING - A function involved in the manufacture of materials, goods or products in which they are not physically changed, except for packaging or sizing.

PRODUCT - Any article whose appearance or composition has been changed or altered, but not in a completed form for ultimate disposition.

PRODUCTION - A function involved in the manufacture of materials, goods or products in which they are physically changed.

PROFESSION - The practice of a medical or osteopathic doctor, attorney, dentist, public accountant, architect, chiropractor, professional engineer, or any other occupation regulated by the Pennsylvania Board of Professional Licensure.

PROFESSIONAL OFFICE OR STUDIO - A use that only involves the practice of a profession.

PUBLIC GARAGE - A building, not a private garage, used primarily for the storage and/or repair of motor vehicles of any type or ownership.

PUBLIC GROUNDS - Includes:

- A. Parks, playgrounds, trails, paths, other recreational areas and other public areas.
- B. Sites for schools, sewage treatment, refuse disposal and other publicly owned or operated facilities.
- C. Publicly owned or operated scenic or historical sites.

PUBLIC HEARING - A formal meeting held pursuant to public notice in accordance with the Pennsylvania Municipalities Planning Code as amended.

PUBLIC MEETING - A forum held pursuant to notice under the Sunshine Act, Act of July 3, 1986 and in accordance with the Pennsylvania Municipalities Planning Code as amended.

RECREATION, PUBLIC - Leisure-time activities, including but not limited to sports and entertainment that are open to anyone without restrictions, except for rules and standards of conduct and use, and that are not primarily operated for commercial purposes and not for the purpose of serving one (1) or more individual households.

RECREATIONAL VEHICLE - A vehicle, regardless of size, which is designated as a temporary dwelling or for recreation and not primarily for transportation. A recreational vehicle may be designed to be self-propelled, towed or carried by another vehicle. A recreational vehicle includes travel trailers, motor homes, all-terrain vehicles, snowmobiles and watercraft with hulls longer than eight (8) feet.

RECYCLING COLLECTION CENTER - A use for collection of common household materials for recycling but that does not involve processing or recycling other than sorting and weighing of materials.

RENEWABLE ENERGY SOURCE - Any method, process or substance whose supply is rejuvenated through natural processes and, subject to those natural processes, remains relatively constant, including, but not limited to, biomass conversion, geothermal energy, solar and wind energy and hydroelectric energy and excluding those sources of energy used in the fission and fusion processes.

REPAIR - A function involved in the correcting of deficiencies affecting the performance ability of products or goods.

RESTAURANT, FAST FOOD -

- A. An establishment that serves ready-to-consume food or drink for compensation and that does not meet the definition of a standard restaurant. A "fast-food restaurant" may include the accessory sale of alcoholic beverages; however, if such sale is a primary or substantial portion of the total trade, the requirements of a tavern must be met.

RESTAURANT, STANDARD -

- A. An establishment that serves ready-to-consume food or drink for compensation in which the majority of the customers order their food while seated inside a building from which food is delivered to their table; or that the majority of the food is purchased in a cafeteria style and consumed within the building.
- B. A standard restaurant may include the accessory sale of alcoholic beverages; however, if such sale is a primary or substantial portion of the total trade, the requirements of a tavern must be met.

RETAIL SALES OR RETAIL STORE - A use in which merchandise is sold to the general public, but not including the following: retail sales of motor vehicles or boats, adult movie theater, adult bookstore, manufacturing, auto repair garage, auto service station, convenience store, car wash, tavern or restaurant.

RETIREMENT VILLAGE - A residential development limited exclusively to persons aged fifty-five (55) years and older and their spouses in which additional non-residential services may be included as an incidental use. Such incidental uses may include retail, dining, medical services, and entertainment.

REVERSE FRONTAGE LOT - A lot with front and rear street frontage, where vehicular access is prohibited to and from the higher intensity street.

RIGHT-OF-WAY - Land reserved for the public or others for use as a street or other purpose. Unless otherwise stated, "right-of-way" shall mean the existing right-of-way line.

RIGHT-OF-WAY, EXISTING OR LEGAL - The line separating a lot from the legal street right-of-way owned by the Municipality or the Commonwealth of Pennsylvania. This "existing right-of-way" shall be the right-of-way line that is proposed to legally exist after a subdivision, land development or development of a use.

RIGHT-OF-WAY, FUTURE - Land reserved for future or present use as a street but that may also be used for other public purpose. The terms "ultimate right-of-way," "right-of-way reserved for future dedication" and "future right-of-way" shall have the same meaning.

ROAD GRADE - The rate of rise and fall of a road's surface, measured along the profile of the centerline of the cart way (See also "Elevation").

RUNOFF - The surface water discharge of a given watershed after a rain or snow that does not enter the soil but runs off the surface of the land.

SALE - A procedure by which services and/or real personal property are transferred in ownership in exchange for something of value.

SANITARY LANDFILL - A type of solid waste disposal area involving the depositing of common household, institutional and business solid waste on land, compacting the waste, covering the waste with soil and then compacting the soil and which has a permit to operate as a sanitary landfill from the state.

SATELLITE ANTENNA - A ground-based reflector, usually parabolic, together with any pedestal and any other attachments and related structures or parts, intended for use to receive electronic signals from a satellite, See also "Household Antenna."

SCHOOL, PRIVATE - A use in which supervised education or instruction is offered privately, which use may or may not be "for-profit."

SCHOOL, PUBLIC - A use in which supervised education or instruction is offered to the public by a school licensed by the Pennsylvania Department of Education and operated by an entity organized under the Pennsylvania Public School Code.

SCREENING - Evergreen and/or deciduous trees and bushes of sufficient height and density to effectually, but not necessarily totally conceal from the view of property owners in adjoining zones, or on adjoining lots, the structures and uses on the premises on which the screen planting is located.

SEDIMENTATION - The process by which soil or other surface material is accumulated or deposited by wind, water or gravity.

SELF-STORAGE DEVELOPMENT - A building or group of buildings divided into individual separate access units that are rented or leased for the storage of personal and small business property.

SERVICE STREET - See "Street" and "Alley."

SERVICES - An act by which skills of one (1) person are used for the benefit of another, provided that no function involves manufacture, cleaning, repair, storage or distribution of products or goods, except for the cleaning and repairing of clothing and personal accessories.

SETBACK LINE - See "Building Setback Line."

SEWAGE DISPOSAL SYSTEM - A system to collect, treat and dispose of sewage. No such system shall be permitted that does not comply with local, state and federal law.

SHOPPING CENTER - A group of stores planned and designed to function as a unified commercial center that provides goods and services, with on-site parking facilities grouped to service a number of stores, and having completely coordinated circulation.

SIGHT DISTANCE - The length of road visible to the driver of a vehicle at any given point in the road when viewing is unobstructed by traffic.

SIGN - Any letter, word, model, banner, flag, device or representation used as, or which is in the nature of, an announcement, direction or advertisement concerning the activity or use conducted on a premises.

SIGN, BUSINESS - A sign directing attention to a business or profession conducted on the same lot or, as incidental to a business, to products sold upon the same lot.

SIGN, TEMPORARY - A sign which is anchored to the ground or attached to a building or structure with weights, cables, pins, braces or stakes and which can easily be moved. Temporary signs are displayed for a limited period of time.

SIGNS, OUTDOOR ADVERTISING - Any card, cloth, paper, metal, painted, glass, wooden, plaster, stone or other sign of any kind or character whatsoever, which announces services or goods attached to the ground or on any tree, wall, bush, rock, post, fence, building, structure or object whatsoever.

SITE PLAN REVIEW - Review of a site plan by the Planning Commission and/or the Governing Body pursuant to this Ordinance.

SLAUGHTER HOUSE - A use involving the killing of animals for commercial purposes. A commercial stockyard or similar facility that primarily involves the bulk storage or transferring of animals on the way to slaughter shall also be considered a "slaughterhouse." This shall not include a custom butcher shop, which is a retail sales use.

SOLID WASTE - Any garbage, refuse, sewage sludge or other discarded material, including solid, liquid, semisolid or contained gaseous material resulting from industrial, institutional, public, household or commercial activities, but not including substances that are legally accepted and disposed of into the air or water through a federal pollution discharge permit, nor paper, cardboard, aluminum, scrap metal or glass that is clearly intended to be recycled.

- A. For the purpose of this Ordinance, the following wholly natural and biodegradable materials shall not be considered to be solid waste unless the materials are disposed of in such a way that a hazard is created to the public health and safety: portions of trees or shrubs, leaves, mulch, grass clippings, rocks, brick, cinder block and concrete. These materials shall be defined as "clean fill." Brick, cinder block and concrete may, however meet the definition of "junk" if not properly disposed of or stored.
- B. For the purposes of this Ordinance, customary residual wastes from an approved mineral extraction use shall not be considered to be "solid waste."

SOLID WASTE DISPOSAL FACILITY - Land or structures where solid waste is processed, incinerated or disposed of.

- A. This shall only include the following facilities, each of which shall be required to have all permits required by the State in place prior to initiation of the use: sanitary landfill, solid waste transfer station, solid waste sorting and/or recycling center or solid-waste-to-energy incinerator.
- B. The following uses, for the purposes of this ordinance, shall not be considered to be a solid waste disposal facility: Junkyard, recycling collection center, leaf composting, clean fill or septage or sludge application.

SPECIAL EXCEPTION - The granting of the right-to-use land as authorized by the Zoning Hearing Board under the terms, procedures and conditions prescribed herein.

STORAGE - A function involving the deposition of materials, goods or products for safekeeping.

STORAGE GARAGE - A building, not a private or public garage, used solely for the storage of motor vehicles but not for sale, service or repair of motor vehicles.

STORMWATER MANAGEMENT FACILITY - Those controls and measures (e.g., storm sewers, berms, terraces, bridges, dams, basins, infiltration systems, swales, watercourses and flood plains) used to implement a stormwater management program.

STORY - That portion of a building between the surface of any floor and the ceiling above it that has a vertical height of six (6) feet or greater. See definition of "Basement."

STREET - A right-of-way or portion thereof intended for general public use to provide means of approach for vehicles and pedestrians. The work "street" includes the words "road," "highway," "thoroughfare" and "way," but not "alley" or "driveway."

STREET CLASSIFICATION - Streets are classified as set forth in Section 5.03 of the Mahanoy Township Subdivision and Land Development Ordinance – Mahanoy Township Ordinance No. 06-01.

STREET LINE - An established line marking the extent of the future street right-of-way, regardless of whether or not such right-of-way is dedicated. If a future street right-of-way is not established, the street line shall be the existing street right-of-way.

STREET, PRIVATE - A strip of land, including the entire right-of-way, privately owned, serving primarily as a means of vehicular and pedestrian travel and furnishing access to abutting properties, which may also be used to provide space for sewers, public utilities, shade trees and sidewalks.

STRUCTURAL ALTERATION - Any change in or addition to the supporting members of a building or structure, such as bearing wall partitions, columns, beams or girders.

STRUCTURE - Any human-made object having an ascertainable stationary location on or in land or water, whether or not affixed to the land.

STRUCTURE, ACCESSORY - See "Accessory Structure."

SURFACE DRAINAGE PLAN - A plan showing all present and proposed grades and facilities for stormwater drains.

SURVEYOR - An individual registered with the Commonwealth of Pennsylvania as authorized to measure the boundaries of tracts of land, establish locations and perform the requirements of a survey.

SWALE - A wide shallow ditch that gathers and carries surface water.

SWIMMING POOL - Any pool, which is constructed, used or maintained to provide recreational facilities for swimming, bathing or wading and which is capable of containing water to a depth greater than eighteen (18) inches and all buildings, equipment and appurtenances thereto.

- A. **SWIMMING POOL, PUBLIC** - A swimming pool that is open to the general public and that is not principally operated for commercial purposes.
- B. **SWIMMING POOL, SEMIPRIVATE** - A swimming pool that is not open to the general public and/or is operated principally for commercial purposes. This includes a pool that is limited to members of a club or residents of a development.
- C. **SWIMMING POOL, PRIVATE** - A swimming pool that primarily serves one (1) household and its occasional guests.

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

THEATER - A building or part of a building devoted to the showing of moving pictures or theatrical or performing arts productions as a principal use, but not including an outdoor drive-in theater or adult theater.

TIRE STORAGE, BULK - The storage of more than three hundred (300) tires on a lot, except for manufacture or wholesale or retail sales of new tires.

TOWNHOUSE - Dwelling, One (1) Family Attached.

TRACT - See "Lot."

TRADE SCHOOL - A facility that is clearly primarily intended for education of a work-related skill or craft or hobby and that does not primarily provide state-required education to persons of ages four (4) to nineteen (19). This shall include a dancing school, martial arts school or ceramics school.

TRUCK TERMINAL - A facility where trucks load and unload goods, products, cargo and/or other materials to be broken down or aggregated in different size loads and re-shipped to other destinations.

UNIT - A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

UNITS OF OCCUPANCY - An allocation of space within a building or structure that is independent of other such space and that constitutes a separate use. This shall include both fee simple ownership and leaseholds.

USE - Any purpose for which a building or other structure or a tract of land may be designed, arranged, intended, maintained or occupied, and any activity, occupation business or operation carried on in a building or other structure or on a tract of land.

VARIANCE - A modification of any provision of this Ordinance, granted by the Zoning Hearing Board in accordance with the provisions of this Ordinance and the Pennsylvania Municipalities Planning Code, Act 247, as amended.

VEGETATIVE COVER - A percentage which when multiplied by the lot area will determine the area that must be covered by vegetation such as trees, shrubs, flowers, grass or other similar natural cover.

VIDEO ARCADE - Any commercial use open to the general public that included six (6) or more electrical or electronic amusement machines that are operated by coins or tokens with monetary value. The use of five (5) or fewer such machines is a permitted by right accessory use to any commercial use.

WALL - See "Fence."

WAREHOUSE - A building used primarily for the inside storage and distribution of goods and materials, which includes land and buildings used as a relay station for the transfer of goods from one vehicle or party to another, and the parking and storage of tractor and/or other trailer units.

WATER SYSTEM - A system designed to transmit water from a source to users in compliance with the requirements of the appropriate state agencies and the Municipality.

- A. **PUBLIC WATER SERVICE** - Service by a central water system that is owned and operated by a municipal authority or a water company with a service area defined by the State Public Utility Commission and which transmits water from a common source to more than twenty (20) dwellings or principal uses.
- B. **ON-LOT OR NONPUBLIC WATER SERVICE** - Water service that does not meet the definition of a public water service. In most cases, this would involve an individual well serving an individual lot, but may also include a common well or another duly approved system.

WATERCOURSE - A permanent topographic feature, whether natural or human-made, that serves to gather and carry flowing surface water, such as a permanent or intermittent stream, a river creek, brook, run or swale, and which is measured by the width of the channel during normal high water.

WATERSHED - All land and water within the confines of a drainage basin.

WETLANDS - Any area of land and/or water meeting one (1) or more definitions of a "wetland" under Federal and/or Pennsylvania law and/or regulations. (Note: As of 1988, the following was the official Federal definition of wetlands: "Those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas. "Wetlands" are technically defined on the basis of types of vegetation and soils and the level of the water table below the surface. As of 1988, the regulations are enforced by the United States Army Corps of Engineers, the United States Fish and Wildlife Service and the Pennsylvania Department of Environmental Protection.)

WHOLESALE - Sales that primarily involve transactions with other businesses and their agents and not to the general public.

YARD - An open area between a setback line and the adjoining lot lines or right-of-way, which may not be occupied or obstructed by any portion of any structure, except as is specifically permitted by this Ordinance.

- A. **FRONT YARD** - A prescribed "yard" located between the front lot line or street and any building, excluding steps.
- B. **REAR YARD** - A prescribed "yard" located between any building, excluding steps, and the rear lot line, commonly found opposite the side of the lot which fronts on a street.
- C. **SIDE YARD** - A prescribed "yard" located between the side lot line and any building, excluding steps.

YARD SALE - See "Garage Sale."

ZONING HEARING BOARD - The body granted jurisdiction under the Mahanoy Township Zoning Ordinance to render final adjudication.

ZONING OFFICER - The individual appointed by the Governing Body to administer the Zoning Ordinance.

ARTICLE III - ZONING MAP

301 Zoning Map

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

302 Identification of Official Zoning Map

The Official Zoning Map shall be identified by the signature of the Governing Body and attested to by the Secretary of that Governing Body, together with the date of the adoption of this Ordinance.

303 Changing the Official Zoning Map

If, in accordance with the provisions of this Ordinance and the Pennsylvania Municipalities Planning Code, as amended, changes are made in district boundaries or other matters portrayed on the Official Zoning Map, such changes shall be entered on the Official Zoning Map promptly after the amendment has been approved by the Governing Body.

No changes of any nature shall be made on the Official Zoning Map or matter shown thereon except in conformity with the procedures set forth in this Ordinance or any State law, if applicable. All changes shall be noted on the Official Zoning Map by date with a brief description of the nature of the change or by reference to an amending Ordinance number.

304 Location of Official Zoning Map

The Official Zoning Map shall be located in a place, as designated by the Governing Body, and shall be the final authority as to the current zoning status of land or water areas in the Municipality, regardless of unofficial copies which may have been made or published from time to time.

305 Replacement of Official Zoning Map

In the event that the Official Zoning Map becomes damaged, destroyed, lost, or difficult to interpret because of the nature or number of changes and additions, the Governing Body may, by resolution, adopt a new Official Zoning Map which shall supersede the prior Official Zoning Map. The new Official Zoning Map may correct drafting or other errors or omissions in the prior Official Zoning Map, but no such correction shall have the effect of amending the original Official Zoning Map or any subsequent amendments thereto. The new Official Zoning Map shall be certified by the signatures of the Governing Body, attested to by the Secretary of the Body. Unless the prior Official Zoning Map has been lost or has been totally destroyed, the prior map or any significant parts thereof remaining shall be preserved together with all available records pertaining to its adoption and amendment.

306 Interpretation of District Boundaries

Where uncertainty exists as to the boundaries of districts, as shown on the official zoning map, the following rules shall apply:

Boundaries indicated as approximately following the center line of streets, highways, alleys, railroad rights-of-way, streams, existing lot lines, or Municipal boundary lines shall be construed to follow such features indicated. Where boundaries are indicated as being approximately perpendicular to the right-of-way line of a street, highway or alley, such boundary shall be construed as being perpendicular thereto. Where a district boundary line does not follow such a line, position is shown on said Official Zoning Map by reference to an Ordinance describing such lines or by a specific dimension expressing its distance, in feet, from the street center line or other boundary line as indicated and running parallel thereto. Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map, or if uncertainty exists as to the true location of a district boundary line in a particular instance, the Zoning Officer shall request the Zoning Hearing Board to render its determination with respect thereto.

ARTICLE IV - ESTABLISHMENT OF ZONING DISTRICTS

ZONE DISTRICT REGULATIONS

401 Designation of Zone Districts

In accordance with the Mahanoy Township Comprehensive Plan, and with consideration of the character of the Schuylkill County Zoning Ordinance and its various parts, and the suitability of the various parts for particular uses and structures, Mahanoy Township is hereby divided into twelve (12) Zoning Districts, differentiated according to permitted uses and building regulations, as follows:

CR	Conservation Residential
A	Reserved
R-1	Reserved
R-2	Single Family Residential
R-3	Multi-Family Residential
VC	Reserved
C-1	Reserved
C-2	Reserved
C-3	Highway Commercial
C-4	Reserved
I	Manufacturing
CM	Conservation Mining

The locations and boundaries of such zones shall be as shown on the Official Zoning Map. In addition to the Zoning Districts listed above, there is one (1) overlay district which is superimposed where applicable over the basic districts. The overlay district is designed to reflect two (2) or more zone districts regulating the same area. The uses permitted by the underlying district are to be allowed subject to the additional regulations imposed by the following overlay district:

AP-1, Airport

The underlying district shall be regulated as to height restrictions in order to preclude development which will interfere with the safety of the take-off or the landing of any aircraft which uses a flight pattern authorized by the FAA as it relates to any airport in or near Mahanoy Township. Such restrictions are included in Article XII hereof .

402 Applications of District Regulations

The regulations set by this Ordinance within each district shall be minimum regulations and shall apply uniformly to each class or kind of structure or land, except as hereinafter provided:

402.1 No building, structure, or land shall hereafter be used or occupied, and no buildings or structures or part thereof shall hereafter be erected, constructed, reconstructed, moved, or structurally altered except on conformity with all of the regulations herein specified for the district in which it is located.

402.2 No building or other structure shall hereafter be erected or altered to exceed the height or bulk, as herein required; to accommodate or house a greater number of families, as herein required; to occupy a greater percentage of lot area, as herein required; to have narrower or smaller rear yard, front yard, side yard, or other open spaces than herein required; or in any other manner contrary to the provisions of this Ordinance.

402.3 No part of a yard, or other open space, or off-street parking required about or in connection with any building for the purpose of complying with this Ordinance, shall be included as part of a yard, open space, or off-street parking similarly required for any other building.

402.4 No yard or lot existing at the time of passage of this Ordinance shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this Ordinance shall meet at least the minimum requirements by this Ordinance.

402.5 Mahanoy Township municipal uses shall be permitted in all zoning districts. For purposes of this section, Mahanoy Township municipal uses shall include any land use owned, occupied, maintained, or leased by Mahanoy Township.

402.6 This limitation shall not apply to any existing or proposed building, or extension thereof, used or to be used by a public utility corporation, if, upon petition of the corporation, the Pennsylvania Public Utility Commission shall after a public hearing, decide that the present or proposed situation of the building in question is reasonably necessary for the convenience or welfare of the public. It shall be the responsibility of the Pennsylvania Public Utility Commission to ensure that both the corporation and the municipality in which the building or proposed building is located have notice of the hearing and are granted an opportunity to appear, present witnesses, cross-examine witnesses presented by other parties and otherwise exercise the rights of a party to the proceedings.

CR CONSERVATION RESIDENTIAL DISTRICT

Purposes:

To encourage the preservation of certain areas and conserve such natural features as water courses, watersheds, forest areas and environmentally sensitive areas such as steep slopes and high water tables.

To provide for recreational facilities, reforestation and other conservation activities. To provide for low density residential development.

403 Principal Permitted Uses

Agricultural uses except intensive agriculture.
Bed and breakfast inns
Cemeteries and mausoleums
Churches, or other places of worship, including parish houses and related facilities
Clubs, lodges and fraternal organizations
Farm dwellings and other agricultural buildings
Public uses (except sewage treatment plants)
Recreation facilities, public
Riding academies, livery (boarding) stables, including saddlery and tack shop
Schools, public and private
Single family dwellings
Sound and reasonable forestry practices.

403.1 Accessory Uses

Deck, patio and porch
Garages / Carports
Home Occupations
Storage shed
Swimming pool, in-ground, private, including accessory facilities
Other accessory uses customarily appurtenant to a principal permitted use.

403.2 Special Exceptions

Campgrounds
Communications facilities, including radio and TV transmission and receiving stations / towers and cellular phone towers
Day care facilities
Outdoor advertising signs
Outdoor theaters
Windmills for generating power and related facilities

R-2 SINGLE FAMILY RESIDENTIAL DISTRICT

Purposes:

To provide for primarily single family housing with or without central water or sewer facilities.

404 Principal Permitted Uses

Conversion of non-dwelling structures into permitted residential uses

Public uses (except sewage treatment plants)

Recreation facilities, public

Single family dwellings

404.1 Accessory Uses

Deck, patio and porch

Garages / carports

Home occupations

Off street parking

Storage shed

Swimming pool, in-ground, private, including accessory facilities

Other accessory uses customarily appurtenant to a principal permitted use.

404.2 Special Exceptions

Day care facilities

Churches, or other places of worship, including parish houses and related facilities Schools, public and private, but not including trade schools

Semi-public uses

Sewage treatment plants

R-3 MULTI-FAMILY RESIDENTIAL DISTRICT

Purposes

To provide for a broad mix of housing types in an urban setting. To retain and expand urban residential areas.

405 Principal Permitted Uses

Conversion of non-dwelling structures into permitted residential uses and conversion of single family dwellings to two family dwellings.

Multi-family dwellings

Townhomes

Public uses (except sewage treatment plants)

Recreation facilities, public

Single family dwellings

Two family dwellings

405.1 Accessory Uses

Deck, patio and porch

Garages / carports

Home occupations

Off street parking

Storage shed

Swimming pool, in-ground, private, including accessory facilities

Other accessory uses customarily appurtenant to a principal permitted use

405.2 Special Exceptions

Churches, or other places of worship, including parish houses and related facilities Eating and drinking places

Fraternal, civic and social organizations

Funeral homes

Nursing homes

Parking garages and parking lots

Professional offices, including group practices and clinics

Recreation facilities, non-public

Retail businesses and personal service establishments, such as food stores, drug stores, barber and beauty shops, apparel stores and hardware stores

Schools, public and private, but not including trade schools

Semi public uses

Sewage treatment plants

C-3 HIGHWAY COMMERCIAL DISTRICT

Purposes:

To provide an environment for the development of commercial facilities intended to serve a wide area where the primary access to such areas shall be from major highways.

To provide for the development of retail and service uses which will serve both the residential and the business community.

To provide for the development of uses which are intended and designed to serve the local traveling public.

406 Principal Permitted Uses

Animal hospitals

Athletic clubs and other physical fitness services

Automobile service stations, minor and major repair

Automobile sales and related repair services

Bakeries, wholesale and retail

Banks and other financial institutions

Building and construction contractors offices and equipment storage yards

Building material sales, including fabrication facility

Business and professional offices

Catering establishments

Churches, or other places of worship, including parish houses and related facilities

Civic, social and religious organizations

Clothes cleaning, and laundry pick-up stations, and laundromats

Eating and drinking places, including live entertainment and "fast food" restaurants

Florists and Nurseries

Funeral parlors

Hospitals, health clinics and other similar health care establishments

Medical and dental offices, including mini-medical centers and testing labs

Mobile home sales and the sale of manufactured housing

Public uses (except sewage treatment plants)

Radio and TV studios

Railroad yards and railroad freight stations

Recreation facilities, public and non-public

Rental storage units, enclosed

Retail establishments, such as department stores, food stores, apparel stores, computers or other electronic products, furniture and home furnishings

Service establishments, including repairs for personal appliances and business equipment, employment services, barber shops and beauty parlors, hardware stores, insurance and other financial services, social services and civic, social and religious organizations, and other similar service uses

Social halls, clubs and lodges

Warehousing

Wholesale offices and showrooms

406.1 Accessory Uses

Home occupations

Off street parking

Other accessory uses customarily appurtenant to a principal permitted use

406.2 Special Exceptions

Flea markets

Hotels and motels

Produce markets

Regional shopping centers and malls Semi public uses

Sewage treatment plants

I- MANUFACTURING DISTRICT

Purposes:

To provide suitable locations for the development of manufacturing, research, and laboratory types of uses, supportive of their continued operation and where such locations will attract additional development of this nature.

407 Principal Permitted Uses

All C-3 principal permitted commercial uses
Automobile service station, minor and major repair
Building and construction contractors offices and equipment storage yards
Eating and drinking places, including live entertainment
Fabrication of metal products
Heavy equipment sales and storage yards
Hotels and motels
Industrial parks and other large scale manufacturing developments
Laboratories
Manufacture of apparel and other textile products
Manufacture of electrical and electronic equipment
Manufacture of food
Manufacture of furniture and fixtures
Manufacture of glass products
Manufacture of mobile homes and other manufactured housing
Manufacture of paperboard containers and boxes, including sanitary food containers and similar uses
Manufacture of small, precision instruments, toys, novelties, rubber and hand stamps
Manufacture of plastic products
Manufacture of pottery and figurines, or other similar ceramic products using only pulverized clay, and kilns fired only by electricity or gas
Mobile home sales and the sale of manufactured housing
Newspaper publishing
Printing, lithographing, type composition, ruling, and binding establishments
Public uses (including sewage treatment plant)
Railroad yards and railroad freight stations
Service establishments, such as legal, engineering, architectural, accounting, auditing and bookkeeping
Trade schools
Truck and freight terminals, and distribution centers
Warehousing
Wholesale offices and showrooms

407.1 Accessory Uses

Other accessory uses customarily appurtenant to a principal permitted use.

407.2 Special Exceptions

Outdoor advertising signs Semi public uses

Sewage treatment plants

Steel mini mill and such similar manufacturing uses.

CM – CONSERVATION MINING DISTRICT

Purposes:

To provide areas of the county where earth extraction shall be a permitted use. To reduce conflict in residential, commercial and mining uses.

408 Principal Permitted Uses

Earth extraction and related activities and structures

Public uses

Recreation facilities, public

Single family dwellings

408.1 Accessory Uses

Deck, patio, porches

Garage and carports

Home occupation

Off-street parking

Storage shed

Swimming pools, in-ground, private, including accessory structures

Other accessory uses customarily appurtenant to a principal permitted use

408.2 Special Exceptions

Airports or landing fields, including heliport pads

All C-3 principal permitted uses

Automobile service station, minor and major repair

Automotive dismantling and recycling facilities and similar storage areas

Campgrounds

Communications facilities, including radio and TV transmission
and receiving stations / towers and cellular towers

Outdoor advertising signs

Recreation facilities, non-public

Recreational Vehicle Parks

Semi public uses

Sewage treatment plants

LOT SIZES

<u>Features Regulated</u>	CR	R-2	R-3	C-3	I	CM
Minimum Lot Width (5)						
<i>On Site Water and Sewer</i>	5 acres	1 acre	1 acre	1 acre	1 acre	1 acre
<i>Central Water or Sewer</i>	30,000 S.F.	30,000 S.F.	30,000 S.F.	30,000 S.F.	30,000 S.F.	30,000 S.F.
<i>Central Water and Sewer</i>	20,000 S.F.	10,000 S.F.	2,500 S.F.	10,000 S.F.	10,000 S.F.	10,000 S.F.
Minimum Lot Width	150' (1)	150' (1)	150' (1A)	105' (1)	150' (1A)	150'(1)
Minimum Yard Setbacks						
<i>Front</i>	25'	25' (2)	10' (2)	35'	35'	25'
<i>Rear</i>	25'	25' (2)	10' (2)	25'	25'	25'
<i>Side, Each</i>	10'	8'	3' (6)	25'	25'	10'
Maximum Building Height (4)	(3)	35'	(3)	(3)	100' (3A)	100' (3A)
Maximum Building Coverage	25%	50%	75%	60%	60%	60%
Maximum Impervious Coverage	50%	75%	90%	90%	90%	90%

(1) Lots with central water *and* sewer: Minimum lot width shall be 75'.

(1A) Lots with central water *and* sewer: Minimum lot width shall be 25'.

(2) Or established building line.

- (3) 35' for walk-up structures; 360' for elevator structures.
- (3A) 360' for elevator structures.
- (4) For height exceptions, refer to Article 4 and Article 12.
- (5) Lot sizes for *multi-family dwellings* on a single lot are subject to PA DEP Sewage Planning Module approval.
- (6) For pre-existing non-conforming lots only in R-3.
 - If lot width is 25' or less – side setback is 0' on either side
 - If lot width is greater than 25' and up to and including 50' – side setback is 3' on either side
 - If lot width is greater than 50' – side setback is 3' on both sides.

GENERAL NOTES:

Flag Lots: the lot area, width, and depth shall be calculated excluding the length, width, and area of the "pole".

ABBREVIATIONS:

S.F. = Square Feet

ARTICLE V - BASIC DISTRICT REGULATIONS

Section 501 Additional Regulations for all Districts

501.1 **Visibility at Intersections in all Districts:** On a corner lot in all Districts nothing shall be erected, placed, planted, or allowed to grow in such a manner as to materially impede vision between a height of two and one-half (2½) and ten (10) feet above the centerline grades of the intersecting streets in the area bound by the street lines at such corner lots and a line joining points along said street lines thirty (30) feet from the point of intersection.

501.2 Fences, Walls, and Hedges

Notwithstanding other provisions of this Ordinance, fences, walls, and/or hedges maintained in good condition may be permitted in any required yard or along the edge of any yard, provided that no fence, wall, or hedge along the sides or front edge of any front yard shall be greater than two and one-half (2½) feet in height. Trees and other plant material designated to enhance the livability and attractiveness of any lot may be located in any yard.

501.3 Yard Screening

Yard screening shall be provided along the boundaries of any commercial, industrial or manufacturing use or off-street parking lot which abuts a residential use and on any Special Use where such screening is required. Such screening shall consist of a visual screen by construction of fences or walls or by planting of suitable shrubs, vines, hedges or trees all of which must be a minimum of six (6) feet in height.

501.4 Slope of Yards

The surface area of any yard or open space adjacent to a building or structure shall be graded so that surface water will be diverted or drained away from any such building or structure.

501.5 Erection of More Than One Principal Structure on a Lot

In any District, more than one structure containing a permitted or permissible principal use may be erected on a single lot, provided that yard, lot area and other requirements of this Ordinance shall be met for each structure as though it were on an individual lot.

501.6 Exceptions to Height Regulations

District height limitations shall not apply to church spires, cupolas, domes, monuments, water towers, chimneys, smokestacks, farm structures, silos, flag poles, utility poles, radio and television masts or aerials, utility towers, and parapet walls extending not more than four (4) feet

above the maximum building height. The Zoning Hearing Board, after review by the Planning Commission, may waive the height limitations of this Ordinance, as they pertain to elevator apartments and to commercial and industrial buildings. In such cases, the Zoning Hearing Board shall determine that such a departure is in the best interests of the Municipality, that it will be compatible with and not cause substantial injury to the value of other adjoining property, and that adequate off-street parking, loading, and fire protection will be provided.

501.7 Front Yard Exceptions

When an unimproved lot is situated between two (2) improved lots with front yard dimensions less than those required for the district, the required front yard may be reduced to a depth equal to the average of the two (2) adjoining lots.

501.8 Projections into Yards

Projections into required yards shall be permitted as follows, except that no such projection shall be located closer than twenty (20) feet to any side or rear lot line or forty-five (45) feet to any front lot line.

(a) Fire escapes, uncovered stairs and landings, canopies, eaves or other architectural features not required for structural support may project into the required side, front, or rear yard a maximum distance of three (3) feet.

(b) Porches may project into the required rear yard to a maximum depth of ten (10) feet.

(c) Patios may be located in the required side and rear yards not closer than ten (10) feet to any adjacent property line, and may project into the front yard up to ten (10) feet. Patios cannot be enclosed or covered by a potential permanent roof unless located within the required minimum yard dimension.

501.9 Access to Structures

All buildings or structures hereafter erected or moved shall be located on a lot adjacent to a public street or with access to an approved private street and all buildings or structures shall be so located on a lot as to provide safe and convenient access for servicing, fire protection, and required off-street parking.

501.10 Corner Lot Restriction

On every corner lot there shall be provided on the side street a side yard equal in depth to the required front yard on said side street by the prevailing zoning district.

501.11 Lots in Two Districts

Where a district boundary line divides a lot in single or joint ownership of record at the time such line is adopted, the regulations for the less restricted portion of such a lot shall extend

not more than thirty (30) feet into the more restricted portion, provided the lot has frontage on a street in the less restricted district.

Section 502 Home Occupation Regulations

In the Rural Residential District, all dwelling units with direct access to a public or private street may be used for the practice of a home occupation, provided such occupation is incidental or secondary to the use of the property as a residence and provided such use is authorized as a "Special Use" by the Zoning Hearing Board.

502.1 Standards

(a) The professional office of a doctor of medicine, surgeon, dentist, architect, landscape architect, lawyer, accountant, insurance agent, realtor, tax collector, engineer, music or voice instructor (if limited to a single pupil at a time), dressmaker, milliner or seamstress shall be deemed to be a "home occupation", provided that the principal person so employed is a resident of the dwelling.

(b) Home occupations shall be limited to the employment of not more than one assistant.

(c) One (1) off-street parking space, in addition to those required of the residence units, shall be required.

(d) A home occupation shall not occupy more than twenty-five (25) percent of the total floor area of the dwelling unit, or five hundred (500) square feet, whichever is less.

Section 503 Accessory Structures and Uses

503.1 Accessory Structures

All accessory structures shall conform with the minimum yard regulations established in Article IV, except as permitted below:

(a) Unattached structures accessory to residential buildings shall not be higher than fifteen (15) feet, or one and one-half (1½) stories, and may be erected within the required rear yard of a principal structure provided that they conform with the following:

(1) The distance from the side lot line to the accessory structure shall not be less than twenty (20) feet, except in the case of corner lots where the side yard as specified in Section 501.10 shall be maintained.

(2) The distance from the rear lot line to the accessory structure shall not be less than forty (40) feet.

(3) Private non-commercial swimming pools, which are designed to contain a water depth of two (2) feet or more must be located in a rear or side yard only, entirely enclosed with a permanent continuous fence not less than six (6) feet in height. Such pools shall be located a minimum of thirty (30) feet from the side and rear property lines, and shall occupy no more than twenty-five (25) percent of the minimum required rear yard.

(4) Private tennis courts shall be permitted within side or rear yards provided that such a facility shall be a minimum distance of thirty (30) feet from the side and rear property lines.

(5) Non-residential activities shall not be permitted in any residential zone except those permitted by Home Occupation Regulations, Section 502 of this Ordinance.

Nothing in this Section shall be construed to limit other uses not mentioned so long as they are clearly accessory to the permitted principal use of the land and do not create a threat to the public health, safety, and/or welfare of the community.

(b) Unattached structures accessory to non-residential buildings shall comply with the front, rear, and side yard requirements for the principal structure in the applicable zoning district.

Section 504 Parking and Truck Loading Requirements

504.1 Off-Street Parking

(a) Minimum parking requirements.

Any building or other structure erected, enlarged, altered or used and any lot used or occupied for any of the following purposes shall be provided with the minimum off-street parking spaces as set forth herewith.

(b) One or more parking lots may be designed to service a multiple number of commercial uses as long as the total requirements are equal to the sum of the requirements of the component uses separately computed.

(c) When the results of the computations of required parking are in fractions, any fraction below one-half ($\frac{1}{2}$) may be disregarded and any fraction over one-half ($\frac{1}{2}$) shall be construed to require one (1) full parking space.

(d) Off-street parking facilities that exist at the effective date of adoption of this Ordinance shall not be subsequently reduced to an amount less than required by this Ordinance for the particular district.

(e) All parking areas and access drives for commercial and industrial uses that are required shall have all-weather surface of either concrete or bituminous composition.

TABLE I	
USES	MINIMUM REQUIRED PARKING SPACES
1. Churches and Schools	1 for each 3.5 seats in an auditorium or for each 17 classroom seats, whichever is greater
2. Business and Professional Offices and Banks, except Medical and Dental Offices	3 for each 1,000 square feet of floor area
3. Community Buildings and Social Halls	1 for each 100 square feet of floor area
4. Country Clubs, Golf Courses	1 for each 200 square feet of floor area**
5. Single-family Dwellings	2 for each family or dwelling unit
6. Motels, Hotels and Rooming Houses	1 for each rental unit
7. Apartments, Townhouses and Garden Apartments*	1.5 for each dwelling unit
8. Funeral Homes, Mortuaries	25 for each parlor
9. Hospitals, Nursing and Convalescing Homes	1 for each 3 beds plus 1 for each employee in the maximum working shift
10. Manufacturing Plants, Research or Testing Laboratories	1 for each 1,000 square feet of floor area, plus 1 for each 4 employees in the maximum working shift; the total parking area shall not be less than 25 percent of the building floor area
11. Medical or Dental Clinics, or Offices	5 spaces for each Doctor and 3 spaces for each Dentist plus 1 space for each employee in the maximum working shift
12. Restaurants, Beer Parlors and Night Clubs	1 for each 2.5 seats
13. Retail Stores, Store Groups, Shops, and Personal Services	In all C-I Districts, 1 for each 300 feet of floor area; in all other C-Districts, where required, 3 spaces shall be provided for each 300 square feet of floor area
14. Wholesale Establishments or Warehouses	1 for each 1 employee in maximum working shift, but not less than 25 % of building floor area
15. Recreational Facilities	An adequate number of spaces should be provided so that all vehicles located at the facility can be accommodated in existing parking lots and not on public roads.
16. Auctions, Galleries	5 for each 500 square feet of floor area
17. Bowling Alleys	5 for each lane
18. Move Theaters, Auditoriums and Sport Stadiums	1 for each 2.5 seats

*Except Elderly Housing where one (1) parking space for each three (3) dwelling units shall be provided.

** There shall be not less than twenty (20) off-street parking spaces for each use.

(f) Vehicles of any kind or type without current registration or license plates shall not be parked on public streets or stored on any residentially zoned property except in a completely enclosed building. One duly licensed travel trailer or pick-up truck camper may be stored in any residentially zoned district provided such travel trailer or pick-up truck camper is not stored between the street line and the principal building or building setback line.

(g) No service of any kind shall be permitted to any accessory parking facility.

504.2 Off-Street Truck Loading

(a) The required loading space for each building or structure, lot or land hereafter used commercially or industrially, or any existing building or structure that is enlarged shall provide one (1) off-street truck loading space for the first 10,000 square feet or less of gross floor area, plus a minimum of one (1) additional off-street truck loading area for each additional 40,000 square feet of gross floor area.

(b) The size of an off-street truck loading space shall be a minimum of twelve (12) feet in width, a minimum of thirty-five (35) feet in length, and a minimum clear height of fourteen (14) feet.

Section 505 Conversion of Dwellings

505. 1 Conversion of Dwellings

The Zoning Hearing Board may authorize the conversion of an existing building in an R-2, Residential, District into a dwelling for more than one family, provided that the lot area per dwelling unit shall not be reduced thereby to less than the lot area per dwelling unit required in the R-2, Residential District and further provided that the yard and building area requirements for such district shall not be reduced thereby. Prior to the authorization of such a conversion, the Zoning Hearing Board shall assure itself that the sanitation facilities will be adequate to accommodate the increased number of dwelling units. The Zoning Hearing Board may prescribe such further conditions with respect to the conversion and use of such building as it deems fit.

Section 506 Miscellaneous Provisions

506.1 Highway Design (Nonresidential Development)

The objective of this section of the Ordinance is to encourage the orderly development of industrial and other nonresidential parcels in a manner which will provide for proper access and reduce traffic conflicts and provide for the health and welfare of the Township population. This shall be accomplished as follows:

(a) Streets, service drives, and pedestrian circulation ways shall be designed and developed to provide for the safe, convenient, and hazard-free internal circulation of goods, people and vehicles.

(b) All nonresidential parcels shall be limited to a maximum of two (2) driveway access points from the street or highway from which they derive their principal access. Such driveway access points shall be a maximum of thirty (30) feet wide and shall be designed and developed in a manner which will minimize their interference with any traffic movements on the street or highway.

(c) When a number of individual parcels, structures, or buildings are being developed jointly, or when a parcel, structure, or building is being developed adjacent to another parcel used or suitable for nonresidential development, consideration should be given to the following:

(1) The location and planning of driveway access points to permit their joint use by adjoining parcels in order to minimize the number of intersections with the street or highway from which they derive their access.

(2) The design and development of parking and/or loading facilities which permit convenient traffic circulation between adjoining parcels.

(3) The design and development of pedestrian circulation ways between adjoining parking areas, structures or buildings.

(4) The provision of landscaping and/or other site features which will enhance the usability, character, and attractiveness of the area.

506.2 Private Parking Areas and Garages

Accessory off-street parking areas or garages serving the residential or nonresidential parking demand created by the principal building are permitted in accordance with Section 503.

Section 507 Dredging, Mining, and Excavation Operations

507.1 Permitted by Zoning Hearing Board

Dredging, mining and excavation operations shall be considered a temporary use of land for the purpose of this Ordinance and may be permitted as a "Special Use" by the Zoning Hearing Board in the I Zoning District. Such dredging, mining and excavation operations shall be permitted only for a limited period of time, as specified below, and subject to appropriate conditions and safeguards. Regulations controlling such operations that are imposed by the State and Federal Government shall take precedence over the regulations imposed by Section 507 of this Ordinance to the extent that Section 507 is in conflict with said State or Federal Regulations.

507.2 Restrictions

All dredging, mining and excavation operations shall be subject to the following regulations:

(a) All disturbed areas shall be graded, backfilled and overburden material replaced in a manner which will restore the premises to a similar or more suitable condition and/or more usable grade than existed on the original site.

(b) The Zoning Hearing Board may require that all or portions of the dredging, mining, or excavation operations be enclosed with a fence to ensure the general welfare and safety of the people.

(c) Dredging, mining and excavation operations, inclusive of drilling and blasting, shall not be conducted on a Sunday, and shall not be operated earlier than 7:00 A.M. nor later than 7:00 P.M. during the remainder of the week.

(d) All excavation and backfilling operations shall be adequately drained to prevent the formation of pools of water.

(e) The side walls of any excavation operation which are not completely backfilled shall not have a slope greater than one (1) foot vertical distance for each two (2) feet of horizontal distance.

(f) No permit issued under the regulations and provisions of this Ordinance shall become effective until any required license or permit required by the Commonwealth of Pennsylvania or the Federal Government is secured.

507.3 Application for Permit

All applications for Zoning Permits for dredging, mining or excavation operations shall comply with the "Special Use" requirements of this Ordinance and with the procedure enumerated in Section 903 of this Ordinance..

Section 508 Sign Regulations

508.1 Area of Sign

The area of the sign shall be construed to include all lettering, wording, and accompanying designs and symbols, together with the background, whether open or enclosed, on which they are displayed, but excluding any supporting framework and bracing which is incidental to the display itself. Where the sign consists of individual letters or symbols attached to or painted on a surface, the area shall be considered to be the smallest rectangle which can be drawn to encompass all of the letters and symbols. Double face signs shall be considered two (2) signs unless both faces are identical.

508.2 Permitted Signs

The maximum permitted size of signs and type of signs in Zoning Districts shall be in accordance with the following regulations:

(a) All Districts

(1) Official traffic or directional signs and other official Federal, State, County, or Township government signs may be erected in accordance with and at the discretion of the appropriate governing agency.

(2) Temporary sign announcing a campaign, drive, or event of a civic, philanthropic, educational, or religious organization, provided such sign shall not exceed twelve (12) square feet in area and shall be removed immediately upon the completion of the campaign, drive or event.

(3) Business signs offering the sale or rental of the premises upon which the sign is erected, provided that the area of any such sign shall not exceed six (6) square feet and not more than one (1) such sign shall be placed on the property unless such property fronts on more than one (1) street, in which case one (1) sign may be erected on each street frontage.

(4) Temporary signs of contractors, developers, architects, landscape architects, engineers, and builders, erected and maintained on the premises where the work is being performed, provided that the area of such sign shall not exceed twelve (12) square feet, and provided that such sign shall be removed upon completion of the work.

(5) Trespassing signs, signs indicating the private nature of a road, driveway, or premises, signs controlling fishing or hunting on the premises, provided that the area of any such sign shall not exceed four (4) square feet.

(b) R-2 - Residential District

(1) Home occupation or name sign displaying the name and address of the occupant or the profession or activity of the occupant of a dwelling, provided that not more than one (1) such sign shall be erected for each permitted use or dwelling and provided that the area of such sign shall not exceed two (2) square feet and provided that such sign shall be fixed flat on the main wall of such building or may be erected in the front yard, but not within ten (10) feet of a street line. Such sign may be interior lighted only in the cases of the office of a physician or dentist.

(2) Sign, bulletin, announcement board or identification sign for schools, churches, hospitals, clubs, multi-residents or other principal uses and buildings other than dwellings on the same lot therewith for the purpose of displaying the name of the institution and its activities or services, provided that the area of any such sign shall not exceed twelve (12) square feet and not more than one (1) such sign shall be erected on anyone street frontage.

(3) Sign offering the sale of farm products, nursery products, or livestock produced or raised on the premises, provided that the area of any such sign shall not exceed twelve (12) square feet and not more than one (1) such sign shall be erected on anyone street frontage.

(4) Sign denoting membership in agricultural associations, cooperatives, or indicating specialization in a particular breed of cattle, horses, hogs, etc., or in a particular hybrid or strain of plant; provided that such sign is limited to six (6) square feet and not more than one (1) sign on anyone street frontage.

(c) Commercial and Industrial

(1) Commercial or Industrial signs attached to or displayed on the surface of a building to which the sign relates, provided that such sign is limited to thirty (30) square feet and not more than one (1) sign on anyone street frontage.

(2) Signs directing patrons, members or audience to temporary exhibits, shows, or events and signs erected in conjunction with a political election, provided that such

sign shall not exceed six (6) square feet, and shall be removed within one (1) week after the date of the exhibit, show, event, or election, shall not be posted or erected earlier than two (2) weeks before the date of the exhibit, show, or event, and that political signs shall not be posted earlier than one (1) month prior to an election.

(3) Business or commercial signs on the same lot as the use to which it relates, provided that such sign shall be limited to two (2) square feet for each lineal foot of horizontal building facade length, but not to exceed an aggregate area of one hundred (100) square feet.

(4) Special temporary promotional devices, signs, or displays, such as banner or pennants for a period not to exceed fifteen (15) days in any one (1) calendar year.

(5) Commercial outdoor advertising signs may be erected on vacant "I" zoned land provided that the area of the sign shall not exceed one hundred (100) square feet. Such signs shall conform to the applicable supplementary sign regulations in Section 508.3.

(6) Where large numbers of either temporary or permanent directional or commercial advertising signs are justified, a sign plaza may be established wherein signs may be consolidated and confined within a single frame or as a combination of sign panels. Plans for the size, shape, color, lighting, manner of display, lettering, and placement of any such consolidated or combined signs at any such sign plaza shall be referred to the Planning Commission for recommendations prior to approval by the Board of Supervisors. Any such sign plaza shall be subject to the applicable procedures and requirements for "Special Uses" of the West Mahanoy Township Zoning Ordinance as well as all applicable regulations of the Pennsylvania Department of Transportation.

508.3 Supplemental Sign Regulations

(a) Projection

No sign shall project greater than twelve (12) inches from the facade of the building to which it is attached. No free standing sign shall project beyond the property line.

(b) Height

No sign that is supported or is part of a building shall be erected upon the roof of such building, nor shall such a sign extend above the height of the building. Free standing signs shall meet the height requirements of the particular district in which it is located.

(c) Clearance

Signs erected directly upon the ground shall not have less than three (3) feet of clear space between the ground and such sign, however, necessary supports may extend through such clear space.

(d) Street Intersection

No commercial, outdoor advertising sign shall be erected, attached or displayed within two hundred (200) feet of the point of intersection measured at the street line, at the street corner.

(e) Illumination

Signs may be lighted with non-glaring, or may be illuminated by shielded flood lights, provided that no red, green, or amber lights shall be permitted and provided that lighting is screened from adjacent properties and roadways. No lights of the intermittent, flashing, or pulsating types shall be permitted.

(f) Placement

No signs shall be permitted which are posted, stapled or otherwise permanently attached to public utility poles, or trees within the street line. No sign shall be located within ten (10) feet of any side property line, nor closer to the front or rear property lines than the minimum building setback requirement. Commercial outdoor advertising signs shall not be located closer than the minimum building setback requirements from any "I" zoned front or rear property line nor closer than six hundred (600) feet from any right-of-way line of an interstate or limited access highway.

(g) Construction

All signs, except those of a temporary nature, shall be constructed of durable material and kept in good condition and repair.

(h) Nonconforming Signs

Nonconforming signs, once removed, shall be replaced only with conforming signs, however, nonconforming signs may be repainted or repaired, providing such repainting or repairing does not exceed the dimensions of the existing sign.

(i) Sign Proximity

Free standing signs shall be no closer to one another than five hundred (500) lineal feet.

(j) Utility Signs

This Ordinance shall not be construed to regulate the location or use of signs necessary for the identification, operation or protection of public utility facilities. These signs shall not exceed the size limitations of the district in which the utility facility is located.

Section 509 Regulations Governing the Use of State Game Lands and Other Conservation Land

509.1 State Game Lands shall be utilized in accordance with regulations established by the Commonwealth of Pennsylvania.

509.2 Other conservation land shall be utilized in accordance with the uses and regulations formulated by the Agency, Authority or Municipality having jurisdiction.

Section 510 Planned Residential Development Standards

510.1 Planned Residential Development

Includes residential uses of all types which are located on a tract of land a minimum of fifty (50) acres in size which is planned for development in its entirety under single ownership and control. Such planned residential developments may be permitted by the Zoning Hearing Board for the purposes of:

(a) Insuring that the provisions of the West Mahanoy Township Zoning Ordinance which are concerned with the uniform treatment of dwelling type, bulk, density and open space within each zoning district, shall not be applied to the improvement of land by other than lot-by-lot development in a manner which would distort the purpose of the Zoning.

(b) Encouraging a flexibility of design and land development which will respect and conserve the natural characteristics of the Township and will result in a site plan designed to benefit the residents or occupants of the development.

(c) Encouraging residential development innovations to meet the ever increasing housing demand by providing for a greater variety and choice in the type, design, and layout of dwelling units as well as providing for the conservation and more efficient use of common open space adjacent to the dwelling units.

(d) Providing a procedure which can relate the type, design and layout of residential development to the particular site and the particular demand for housing existing at the time of development in a manner consistent with the preservation of the property values within existing residential areas, and to assure the increased flexibility of regulations over land development established hereby is carried out pursuant to sound, expeditious, and fair administrative standards and procedures.

510.2 Planned Residential Developments shall conform to the following standards:

Permitted Locations - Planned Residential Developments may be permitted as a "Special Use" by the Zoning Hearing Board in the R-2, Residential, District.

510.3 Residential Uses

The residential uses may include a mix of the following housing types appropriate to the site and the surrounding area, as determined by the provisions for development established in this section. Residential uses may include:

(a) One Family (Single Family Detached Dwelling Units)

(b) Two Family (Detached or Semi-Detached Dwelling Units)

- (c) Multi Family Dwelling Units
 - 1. Limited Apartments
 - 2. Townhouses (Row Houses)
 - 3. Garden Apartments
 - 4. High-Rise Apartments

510.4 Non-Residential Uses

Planned Residential Developments which contain eighty (80) or more dwelling units, may include compact integrated accessory retail and service shopping facilities which are designed and intended primarily to serve the PRD. Such uses may include:

- (a) Commercial uses such as retail shops or stores, service businesses, and restaurants.
- (b) Professional or 'business office uses, including branch banks.
- (c) Institutional uses such as private schools, nursery schools and day care centers, churches, and community activity centers.

No commercial development, serving the needs of the resident population of the PRD, in excess of the market analysis provided by the developer shall be allowed.

510.5 Eligibility Requirements

No application for tentative approval of a Planned Residential Development shall be considered or approved unless the following initial requirements are met:

- (a) The proposed Planned Residential Development shall consist of one or more contiguous parcels of land under single ownership or control.
- (b) The proposed Planned Residential Development shall contain a minimum of fifty (50) acres of land.
- (c) The proposed Planned Residential Development shall be served with a centralized sanitary sewer system and a centralized water supply system as approved by the Department of Environmental Protection.
- (d) The proposed Planned Residential Development shall have a minimum of one hundred fifty (150) feet of frontage on a collector street.
- (e) The proposed Planned Residential Development shall be generally consistent with the Mahanoy Township Comprehensive Plan.

510.6 Density Requirements

Land use density within Planned Residential Developments shall be regulated by the following general standards:

- (a) The maximum average gross residential density shall be one (1) dwelling unit per acre of land.
- (b) The percentage of the Planned Residential Development site which is to be covered by buildings, roads, parking areas, and other impermeable cover shall not exceed forty (40) percent of the total site area.
- (c) The percentage of the Planned Residential Development site to be devoted to common open space shall not be less than twenty-five (25) percent of the total site area.
- (d) The percentage of the Planned Residential Development site to be devoted to non-residential uses shall not exceed five (5) percent of the total site area.

510.7 Site Analysis

- (a) Analysis of Natural Site Features:

(1) An analysis of the natural site features is required for the purpose of determining specific areas of the total PRD site which are best suited for high density, medium density, and low density development, or areas which should be preserved in their natural state as common open space areas. The following subjects must be included in the site analysis:

Hydrology - An analysis of the existing drainage patterns and water resources inclusive of an analysis of the streams, ponds or lakes, swamps, flood plain areas and permanent and seasonal high water tables throughout the total PRD site.

Geology - An analysis of the characteristics of rock formations underlying the site inclusive of defining aquifers (particularly those subject to pollution), shallow bedrock areas and areas in which rock formations are unstable.

Soils - An analysis of the soil types found in the PRD site area inclusive of prime agricultural soil areas, aquifer recharge soil areas, unstable soils, soils most subject to erosion, and soils which are suitable for high, medium, and low density development. The soils analysis must be based on the United States Department of Agriculture, Soil Conservation Service report for Schuylkill County.

Topography - An analysis of the terrain of the PRD site inclusive of mapping of elevations and delineation of slope areas greater than sixteen (16) percent, between eight (8) and sixteen (16) percent, and less than eight (8) percent.

Vegetation - An analysis of the plant material of the site, with emphasis on the location of woodlands and meadowland areas. The dominant tree and plant species should be identified and the characteristics of each noted.

Micro Climate - An analysis of seasonal temperatures, precipitation, prevailing winds and daily hours of sunlight in specific areas of the PRD site.

(b) Community Impact Analysis

An analysis of the potential effects of the PRD upon public facilities, utilities, and roadway systems will be required in order to determine the impact of the PRD upon Mahanoy Township. A comparison of the expenditures by the Township versus the revenues to the Township produced by the PRD shall be included in the analysis. Data pertaining to market analysis, which estimates potential market demand for various types of housing in the area of the proposed PRD site, shall also be presented.

510.8 Site Design Standards

(a) Residential Uses

(1) The results of the site analysis of the natural features shall be a major determining factor in the site selection of dwelling units.

(2) Conventional building setbacks from streets and minimum distances between buildings may vary in order to produce an attractive and interesting arrangement of buildings and to provide buffers for views and from sound.

(3) Dwelling units shall be sited to promote pedestrian circulation and provide visual access to common open space.

(4) Dwelling units shall be sited to promote and maintain privacy for residents within and adjacent to the PRD. High-rise structures shall be sited within the PRD so that they will not obstruct natural light or invade the privacy of adjacent low-rise structures.

(5) Dwelling units and other structures shall not be located within one hundred (100) feet of the property line of the PRD and/or must be set back a distance sufficient to protect the privacy of adjacent existing buildings, structures or uses. A planting strip of at least fifty (50) feet shall be provided along all property lines of the development where essential to protect the privacy of neighboring buildings, structures or uses.

(6) No structure shall be located within twenty (20) feet of the right-of-way of access roads, parking areas or collector streets.

(b) Commercial Uses

- (1) All commercial uses shall be located in a single area of the PRD site.
- (2) All commercial uses shall have direct access to a collector street.
- (3) Signs for commercial uses are permitted subject to the provisions of Section 508 of this Ordinance.

(c) Common Open Space

(1) The location, shape, size, and character of the common open space shall be provided in a manner consistent with the purpose established in Section 510.1 for Planned Residential Developments. Points of major concern will be the conservation of natural resources, the creative use of land and the constraints as determined by the site analysis of natural features.

(2) The common open space uses must be appropriate to the scale and character of the PRD. Consideration should be given to the size, natural features, potential population, and the number and types of dwelling units to be developed.

(3) Whenever possible, common open space shall be designed as an interconnecting pedestrian area among residential uses with visual access available to all residents of the PRD. The development of the PRD must be planned to coordinate the establishment of common open space areas with the construction of dwelling units.

(4) The significant natural features of the PRD site such as woodland areas, large trees, natural watercourses and bodies of water, rock outcroppings, and vistas, shall be incorporated into the common open space areas whenever possible. A minimum of twenty-five (25) percent of the total common open space area shall be suitable for an active recreation area of intense use.

(d) Street System

(1) The street system shall be designed to relate harmoniously with the land uses within and adjacent to the PRD by establishing a hierarchy of roadway functions through the use of collector and minor streets.

(2) The street system shall be designed to create a separation of vehicle and pedestrian traffic through the coordinated design of streets, dwelling units, common open space areas, and pedestrian circulation ways.

(3) The PRD street system shall connect safely with the existing Township road network to insure proper ingress and egress.

(4) Through traffic in residential areas shall be kept to a minimum.

(5) Collector and minor streets shall be designed with a minimum right-of-way of sixty (60) feet and fifty (50) feet respectively and shall have a minimum pavement width of thirty-six (36) and twenty-eight (28) feet respectively. Where the results of the Community Impact Analysis, as described in Section 510.7(b) indicate a need for a greater or lesser right-of-way and pavement width, the modifications may be authorized by the Zoning Hearing Board. The design and construction of streets must conform to the standards established in the Subdivision Ordinance relative to paving specifications, pavement design, horizontal and vertical alignment, and sight distances.

(6) Culdesacs shall have a paved turning circle with a minimum radius of forty (40) feet to the outer edge of pavement and a minimum radius of fifty (50) feet to the outer edge of the right-of-way. The maximum length of culdesac streets shall be eight hundred (800) feet.

(7) In order to create a separation between vehicle and pedestrian circulation, and to increase accessibility to common open space areas, pedestrian walkways will be provided wherever feasible. Sidewalks and their respective widths will be required adjacent to street in Planned Residential Developments only as deemed necessary by the Zoning Hearing Board.

(e) Parking

(1) Two (2) off-street parking spaces, measuring ten (10) by twenty (20) feet, shall be provided for each dwelling unit. Where off-street parking spaces are provided and grouped in lots, aisles, a minimum of twenty (20) feet wide shall also be provided.

(2) There shall be one (1) off-street parking space, measuring ten (10) by twenty (20) feet, for each one hundred (100) square feet of commercial space exclusive of storage areas. In addition, paved truck loading areas shall be provided so that all loading, unloading, and maneuvering can be accommodated within the commercial areas.

(3) Parking areas shall be so arranged as to prevent through traffic to other parking areas.

(4) Parking areas shall be screened from adjacent buildings, access roads and traffic arteries, through the use of plantings, earth berms, changes in grade, or walls. All parking areas shall be located a minimum distance of twenty (20) feet from all buildings, access roads, and traffic arterials.

(5) A maximum of fifteen (15) parking spaces, shall be permitted in a continuous row without being interrupted by landscaping approved by the Zoning Hearing Board.

(6) A maximum of sixty (60) parking spaces shall be accommodated in any single parking area.

(7) All off-street parking and loading areas shall be surfaced in accordance with the Subdivision Ordinance with reference to pavement type and base material.

(f) Lighting

(1) All streets, off-street parking areas, and areas of intense pedestrian use shall be adequately lighted. All such lighting shall be designed and located to direct light away from adjacent buildings.

(2) Adequate and appropriate lighting fixtures shall be provided for walkways and to identify steps, ramps and signs. All such lighting shall be designed and located to direct light away from adjacent residences.

(g) Utilities

(1) All utilities serving the PRD shall be underground.

(2) Planned Residential Developments shall be provided with centralized sanitary sewer and water supply systems of adequate capacities. The design and construction for sanitary sewer and water supply systems shall conform to the current applicable standards of the Department of Environmental Protection. Approval of DEP of the systems shall be required, prior to final approval of a PRD development.

(h) Erosion Control and Storm Drainage

(1) The PRD shall be designed and constructed so as to minimize site clearance and earthmoving operations. The results of the site analysis shall be taken into account in determining areas suitable for site clearance and earth moving.

(2) Where site clearance and earthmoving operations are necessary, sedimentation and erosion control measures shall be undertaken in accordance with standards established by the Schuylkill County Soil and Water Conservation District.

(3) The storm drainage system for a PRD shall be designed to minimize soil erosion and flooding, using as necessary, drainage easements, swales, catchment basins and silt traps. The results of the site analysis of the natural features shall be utilized in designing and constructing the storm drainage system.

(i) Landscaping

(1) All efforts shall be made to preserve existing trees. The preservation of trees six (6) inches or more in caliper, measured at a height of four and one-half (4½) feet above the existing grade, shall be a determining factor in the location of common open space areas, buildings, underground utilities, walks, and paved areas. In areas where trees are to be preserved, the grade shall remain at existing level.

(2) Where natural tree and vegetative cover does not exist or cannot be preserved, adequate landscaping shall be regarded as an essential feature of the PRD. In such a case, adequate landscaping shall be undertaken to enhance the appearance of the PRD, aid in erosion control, provide protection from wind and sun, screen streets and parking areas, provide buffer areas, as well as enhancing the privacy of the dwelling units.

(j) Supplemental Design Requirements

(1) Shopping (commercial) and recreational facilities shall be located within the PRD so as not to interfere with the nearby residential areas.

(2) Refuse stations serving residential, commercial, and recreational areas shall be designed with suitable screening and located where convenient for trash removal and not offensive to nearby residential uses.

(3) With the exception of standards explicitly set forth in Section 510.7 and 510.8, site design and site improvements shall conform to the standards established in the Subdivision Ordinance.

510.9 Development in Phases

A Planned Residential Development may be developed in phases if the following standards are met:

(a) The locations and approximate time of construction of each phase are clearly denoted on the development plan.

(b) A minimum of fifteen (15) percent of the total number of dwelling units in the PRD are included in the first phase.

(c) A minimum of thirty-three (33) percent of the total number of dwelling units in the development are rented, leased or sold prior to the construction of any commercial development.

(d) The second and subsequent phases are completed consistent with the development plan and are of such size and location that they constitute economically sound units of development. In no instance shall the phases contain less than fifteen (15) percent of the dwelling units included in the development plan.

(e) Gross residential density may be varied from phase to phase provided a gross residential density in one phase which exceeds the permitted average gross residential density for the entire Planned Residential Development must be offset by a gross residential density in a prior completed phase which is less than the permitted average gross residential density for the entire Planned Residential Development, or there must be an appropriate reservation of common open space on the remaining land by a grant of easement or covenant in favor of the Township which specifies the amount and, if necessary, the location of the common open space.

510.10 Ownership, Maintenance, and Preservation of Common Open Space

(a) The developer is responsible for establishing provisions which will insure that land designated as common open space shall continue as such and be properly maintained. The developer shall either:

(1) Dedicate such land to public use if the Township or other public agency has indicated it will accept such dedication.

(2) Retain ownership and responsibility for maintenance of such common open space land.

(3) Provide for and establish one or more organizations for the ownership and maintenance of all common open space. In such a case, each organization shall be a non-profit homeowner's association, unless the developer demonstrates that a community open space trust is a more appropriate form of organization.

(b) Common open space shall be so located as to be consistent with the purposes established in Section 510.1 for Planned Residential Developments. Where possible, common open space shall be a contiguous area easily accessible to the residents.

(c) If a homeowner's association or community open space trust is formed, it shall be governed by the following regulations:

(1) The organization is established by the developer and operated with financial subsidization by the developer, if necessary, prior to the sale of any dwelling units in the PRD.

(2) Membership in the organization is mandatory for all purchasers of homes therein and their successors.

(3) The organization shall be responsible for the maintenance of and insurance and taxes on common open space.

(4) The members of the organization shall equally share all costs of maintaining and developing common open space, in accordance with the procedures established by them.

(5) The organization shall have or hire adequate staff to administer common facilities and maintain the common open space.

(d) In the event that the organization or any successor organization set up to own and maintain a common open space shall, at any time after the establishment of the PRD, fails to maintain the common open space in reasonable order and condition in accordance with the development plan, the Township may serve written notice upon such organization or upon the

residents and owners of the PRD setting forth the manner in which the organization has failed to maintain the common open space in reasonable condition, and said notice shall include a demand that such deficiencies of maintenance be corrected within thirty (30) days thereof, and shall state the date and place of a hearing thereon, which shall be held within fourteen (14) days of the notice.

At such hearing, the Township may modify the terms of the original notice pertaining to the deficiencies and may give an extension of time within which they shall be corrected. If the deficiencies enumerated in the original notice or in the modifications thereof are not corrected within said thirty (30) days or any extension granted thereof, the Township, in order to preserve the taxable values of the properties within the PRD and to prevent the common open space from becoming a public nuisance, may enter upon said common open space and maintain the same for a period of one (1) year. Said entry and maintenance shall not constitute a taking of said common open space, nor vest in the public any right to use the same. Prior to the expiration of said year, the Township, upon its initiative or upon the request of the organization theretofore responsible for the maintenance of the common open space shall call a public hearing upon notice to such organization, or to the residents and owners of the PRD, to be held by the Township, at which hearing such organization of the residents and owners of the PRD shall show cause why such maintenance by the Township shall not, at the option of the Township, continue for one (1) succeeding year. The Township shall determine that such organization is ready and able to maintain said common open space in reasonable condition. The Township shall cease to maintain said common open space at the end of said year. If the Township shall determine such organization is not ready and able to maintain said common open space in a reasonable condition, the Township may, in its discretion, continue to maintain said common open space during the next succeeding year and subject to a similar hearing and determination in each year thereafter. The decision of the Township in any such case shall constitute a final administrative decision subject to judicial review.

(e) The cost of such maintenance by the Mahanoy Township Board of Supervisors shall be assessed ratably against the properties within the PRD and shall become a lien on said properties. The Board of Supervisors, at the time of entering upon for the purpose of maintenance, shall file a notice of lien in the office of the Prothonotary of the County, upon the properties affected by the lien within the PRD.

(f) An office of public dedication of common open space made by the developer in the development plan, prior to the establishment of any organization responsible for common open space area, and accepted by the Board of Supervisors shall constitute a fulfillment of responsibility for providing and maintaining common open space areas. Under any other circumstances, provision for dedication must be made subject to Section 510.17 enforcement and modification of provisions of the plan.

510.11 Application for Tentative Approval

(a) The application for tentative approval shall be executed by or on behalf of the landowner and filed with the Zoning Hearing Board. An initial deposit in the amount of thirty-five (35) dollars shall be paid upon filing of the application to be applied against the expenses of

processing the application. Additional deposits shall be made from time to time as requested by the Zoning Hearing Board, not to exceed the actual expenses incurred by the Township.

(b) The application for tentative approval shall include documentation illustrating compliance with all of the standards for Planned Residential Development in Section 510.11, and, where necessary, the Zoning Hearing Board shall order such documentation to further aid their review.

(c) Required documentation shall include but need not be limited to materials illustrating the following information:

(1) The location, size, and topography of the area involved and adjoining the PRD site.

(2) The nature of the landowner's interest in the PRD.

(3) The proposed land use areas within the PRD, distinguishing between types of residential, non-residential and common open space.

(4) The land use density of each land use within the PRD and the average gross residential density for the entire PRD.

(5) The location, function, size, ownership, and manner of maintenance of the common open space.

(6) The use and the approximate height, bulk, and location of buildings and other structures.

(7) The location, rights-of-way, and pavement widths of proposed streets, and the location and capacity of areas for the parking of vehicles.

(8) The feasibility of proposals for sanitary sewerage, water supply, and storm water systems.

(9) The proposed location of all underground utility lines.

(10) The substance of covenants, grant of easements, or other restrictions to be imposed upon the use of land, buildings, and structures including proposed grants and/or easements for public utilities.

(11) In the case of plans which call for development in phases, a schedule showing the time within which applications for final approval of all parts of the PRD are intended to be filed, and which shall be updated annually on the anniversary of submission for final approval.

(12) The application shall, insofar as possible, indicate compliance with the provisions established herein, governing the requirements for final approval.

(d) Application for tentative approval shall include, but need not be limited to the following plans and documents necessary in order for the Zoning Hearing Board to determine the adequacy of the proposals indicated above:

(1) A site plan or plans at one (1) inch equals fifty (50) feet, delineating the hydrology, geology, soils, topography, and vegetation of the site as explained in Section 510.7. The combined impact of the natural features upon the development potential of each specific area of the PRD site shall be clearly illustrated on the site plan or plans.

(2) A site plan or plans at one (1) inch equals fifty (50) feet, illustrating the following information:

(a) Contour lines at vertical intervals of not more than two (2) feet.

(b) Types and approximate location of all buildings.

(c) Right-of-way and pavement widths and approximate locations for all streets and proposed connections with the public street system. Approximate location and size of all parking areas.

(d) Approximate location of all common open space areas indicating size, nature of facilities, uses, and structures, if any.

(e) Approximate location, size, and material of all sanitary sewerage, water supply, and storm drainage distribution lines.

(3) In the case of plans which call for development in phases, a plan at one (1) inch equals fifty (50) feet delineating each phase of the PRD consecutively numbered so as to indicate phasing of development.

(4) A plan at one (1) inch equals five hundred (500) feet illustrating the relation of the PRD to the surrounding area and all existing development within one thousand (1,000) feet of the PRD.

(e) The application shall also include a written statement by the landowner setting forth the reasons why, in his opinion, the PRD would be in the public interest and would be consistent with the Township Comprehensive Plan.

(f) One (1) copy of every application for tentative approval received by the Zoning Hearing Board shall be promptly forwarded to the Township Planning Commission and to the Schuylkill County Planning Commission for study and recommendation as required by the Pennsylvania Municipalities Planning Code. The Township Planning Commission and the Schuylkill County Planning Commission shall review and report upon the application to the

Zoning Hearing Board within forty five (45) days of such referral. One (1) copy of the reports of the respective planning commission shall be furnished to the landowner not less than five (5) days prior to the appointed time of the public hearing.

(g) The landowner, the Zoning Hearing Board, the Township Planning Commission, the Board of Supervisors, and the Schuylkill County Planning Commission may consult informally concerning the proposed PRD prior to the filing of an application for tentative approval, provided that no statement or representation by a member of any of the aforementioned agencies shall be binding upon the Township.

510.12 Status of Plan After Tentative Approval

(a) The official written communication shall be certified by the secretary of the Zoning Hearing Board and shall be filed in his office, and a certified copy shall be mailed to the landowner. Where tentative approval has been granted, the same shall be noted on the Official Zoning Map.

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

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

510.13 Application for Final Approval

(a) An application for final approval may be for all the land included in a development plan or, to the extent set forth in the tentative approval, a phase thereof. Said application shall be made to the Zoning Hearing Board and within the time or times specified in the official written communication granting tentative approval. If the application for final approval is in compliance with the tentatively approved development plan, a public hearing need not be held.

(b) The application for final approval shall include a final plan at a scale of one (1) inch equals fifty (50) feet. If the final plan is drawn in two (2) or more sections, a key map showing the location of the several sections shall be placed on each sheet. The final plan shall show the following:

(1) Name of the Planned Residential Development and the municipality or municipalities in which it is located.

(2) Name and address of the landowner and developer.

(3) North point, graphic scale, and date.

(4) Source of title to the land of the Planned Residential Development as shown by the books of the County Recorder of Deeds.

(5) Accurate boundary lines, with dimensions and bearings, which provide a survey of the tract closing with an error of not more than one (1) foot in ten thousand (10,000) feet.

(6) Total number of lots, lot lines, and lot numbers, where applicable, within the development with distances accurate to the nearest hundredth of a foot.

(7) Total acreage of development, land uses in each area, total number of dwelling units, number of each type of dwelling unit, average gross residential density, and gross residential density in each phase.

(8) Building coverage lines accurately locating all types of dwelling units and non-residential structures, giving dimensions of the structures, distances between the structure, distances to street right-of-way and parking areas, with distances accurate to the nearest hundredth of a foot.

(9) Accurate dimensions of common open space areas specifically indicating those areas to be preserved in their natural state and those areas to be developed for active recreation. Where common open space areas are to be developed, the exact location of structures in common open space shall be indicated.

(10) Names, locations, pavements, rights-of-way, and other dimensions of existing and proposed streets including centerline courses and curve data.

(11) Locations and dimensions of parking areas and pedestrian walkways.

(12) Location and material of all permanent monument and lot markers.

(13) Location and dimensions of easements for utilities and any limitations on such easements.

(14) The following certificates:

(a) Certification with seal and signature, by a registered engineer or land surveyor to the effect that the survey and plan are correct.

(b) Certificate for approval by the Zoning Hearing Board.

(c) Certificate of dedication of streets, public facility sites, or common open space when such dedication is proposed.

(15) In the case of a Planned Residential Development proposed to be developed over a period of years, final plan requirements as listed in Sections 510.13 (6) through (13) above will apply only to the phase for which final approval is being sought. However, the final plan presented for the phase to be developed must be considered as it relates to information regarding densities and types of dwelling units, location of common open space, sanitary sewer and water distribution systems, and street systems presented for the entire development in the application for tentative approval.

(c) The final plan shall be accompanied by the following materials:

(1) Final drawings for the installation of all improvements based on Section 510.8 (d) through 510.8 (j) of this Ordinance. Final profiles and cross sections for streets, sanitary sewer, water supply, and storm drainage system improvements shall be presented. Each system shall be illustrated on one or more separate sheets.

(2) Architectural drawings illustrating exterior and interior designs of typical dwelling units of each type and non-residential structures to be constructed.

(3) All covenants pertaining to the land governing the reservation and maintenance of dedicated or undedicated common open space land. These shall bear the certificate of approval of the Township solicitor as to their legal sufficiency.

(4) Restrictions of all types which pertain to the land and will become covenants in the deeds of lots shown on the final plan.

(5) Such certificates of approval by authorities as have been required in this Ordinance, including certificates from the Department of Environmental Protection approving the water supply and sanitary sewerage systems.

510.14 Guarantee of Improvements

(a) In order to guarantee the improvements set forth in Section 510.8 (d) through 510.8 (j) and in the Subdivision Ordinance, to the extent which it applies, the final plan shall be accompanied by one of the following:

(1) A certificate from the applicant, signed by the Board of Supervisors, that all improvements and installations in the development required by these regulations will be made or installed in accordance with Township approved specifications.

(2) A certificate from the applicant, signed by the Board of Supervisors, that a bond, certified check, or other security satisfactory to the Zoning Hearing Board has been filed with the Board of Supervisors.

(3) A bond, certified check or other security satisfactory to the Zoning Hearing Board, which shall:

(a) Be made payable to "Mahanoy Township".

(b) Be in an amount determined by the Zoning Hearing Board to be sufficient to complete the improvements and installations in compliance with these regulations.

(c) In the case of a bond, it shall be with surety satisfactory to the Zoning Hearing Board and in form, sufficiency, and execution acceptable to the Zoning Hearing Board.

The bond, certified check, or other securities shall specify the time for the completion of the required improvements. Such time shall be satisfactory to the Zoning Hearing Board. When the improvements have been completed and approved by the Board of Supervisors, the guarantee shall be released and returned. As the required improvements progress and are approved by the Zoning Hearing Board, a portion of the bond, monies or other security commensurate with the cost of the improvement may be released and returned. In the event that cash or its equivalent is deposited as an improvement guarantee, it shall be held in an escrow fund.

510.15 Procedures After Application for Final Approval

(a) In the event the application for final approval has been filed, together with all drawings, specifications and other documents in support thereof; as required by the Ordinance and the official written communication of tentative approval, the Zoning Hearing Board shall, within thirty (30) days of such filing, grant such development plan final approval.

(b) In the event the development plan as submitted contains variations from the development plan given tentative approval, the Zoning Hearing Board may refuse to grant final approval and shall, within thirty (30) days from the filing of the application for final approval, so advise the landowner in writing of said refusal, setting forth in said notice the reasons why one or more said variations are not in the public interest. In the event of such refusal, the landowner may either:

(1) Re-file his application for final approval without the variations objected.

(2) File a written request with the Zoning Hearing Board that it hold a public hearing on his application for final approval. If the landowner wishes to take either such alternate

action, he may do so at any time within which he shall be entitled to apply for final approval, or within thirty (30) additional days if the time for applying for final approval shall have already passed at the time when the landowner was advised that the development plan was not in substantial compliance. In the event the landowner shall fail to take either of these alternate actions, within said time, he shall be deemed to have abandoned the development plan. Any such public hearing shall be held pursuant to public notice within thirty (30) days after request for the hearing is made by the landowner, and the hearing shall be conducted in the manner prescribed in this Ordinance for public hearings on applications for tentative approval, within thirty (30) days after the conclusion of the hearing, the Zoning Hearing Board shall, by official written communication, either grant final approval to the development plan or deny final approval. The grant or denial of final approval of the development plan shall, in cases arising under this section, be in form and contain the findings required for an application for tentative approval set forth in this Ordinance.

(3) A development plan, or any phase thereof, which has been given final approval, shall be so certified without delay by the Board of Supervisors and shall be duly recorded in the office of the County Recorder of Deeds within thirty (30) days and prior to any development taking place in accordance thereof. Upon the filing of record of the development plan, the zoning and subdivision regulations otherwise applicable to the land included in such plan, shall cease to apply thereof. Pending completion within a period of two (2) years of said Planned Residential Development or of that phase thereof, as the case may be, that has been finally approved, no modification of the provisions of said development plan, or phase thereof, as finally approved, shall be made except with the consent of the landowner.

(4) In the event that a development plan, or a section thereof, is given final approval and thereafter the landowner shall abandon such plan or the section thereof that has been finally approved, and shall so notify the Board of Supervisors in writing; or, in the event the landowner shall fail to commence and carry out the Planned Residential Development or of that phase thereof, within a period of two (2) years after final approval has been granted, no development or further development shall take place on the property included in the development plan until after the said property is resubdivided and is reclassified by enactment of an amendment to this Zoning Ordinance in the manner prescribed.

510.16 Administration and Review

(a) Issuance of permits and all matters pertaining to the administration of the development plan as finally approved shall be the responsibility of the Zoning Administrative Officer.

(b) Upon application of the landowner showing compliance with the requirements of final approval, the Zoning Administration Officer shall issue permits for construction pursuant to the plan, or any phase thereof.

(c) The provisions of Article IX of the West Mahanoy Township Zoning Ordinance governing "Administration and Enforcement" shall be fully applicable to the development plan as finally approved insofar as the provisions thereof are consistent with the provisions of Section

510. The Zoning Administrative Officer shall review the progress, status, and construction of the development plan and render monthly reports thereon to the Board of Supervisors in order to assure compliance with the provisions of Section 510.

510.17 Enforcement and Modification of Provisions of the Plan

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

(a) The provisions of the development plan relating to (1) the use, bulk and location of buildings and structures; (2) the quantity and location of common open space, except as otherwise provided in this Ordinance; and (3) the intensity of use or the density of residential units, shall be in favor of the Township and shall be enforceable in law or in equity by the Township, without limitation on any powers of regulation otherwise granted the Township by law.

(b) All provisions of the development plan shall be in favor of the residents of the Planned Residential Development but only to the extent expressly provided in the development plan and in accordance with the terms of the development plan, and to that extent said provisions, whether recorded by plat, covenant, easement or otherwise, may be enforced by law or equity by said residents acting individually, jointly, or through an organization designated in the development plan to act on their behalf; provided, however, that no provisions of the development plan shall be implied to exist in favor of residents of the Planned Residential Development except as to those phases of the development plan which have been finally approved and have been recorded.

(c) All those provisions of the development plan authorized to be enforced by the Township under this section may be modified, removed, or released by the Township, except grants or easements relating to the service or equipment of a public utility, subject to the following conditions:

(1) No such modification, removal or release of the provisions of the development plan by the Township shall affect the rights of the residents of the Planned Residential Development to maintain and enforce those provisions, at law or equity, as provided in this section.

(2) No modification, removal or release of the provisions of the development plan by the Township shall be permitted except upon a finding of the Board of Supervisors, following a public hearing thereupon pursuant to public notice called and held in accordance with the provisions of this Ordinance, that the same is consistent with the efficient development and preservation of the entire Planned Residential Development, does not adversely affect either

the enjoyment of land abutting upon or across the street from the Planned Residential Development or the public interest, and is not granted solely to confer a special benefit upon any person.

(d) Residents of the Planned Residential Development may, to the extent and in the manner expressly authorized by the provisions of the development plan, modify, remove or release their rights to enforce the provisions of the development plan, but no such action shall affect the rights of the Township to enforce the provisions of the development plan in accordance with the provisions of this section.

ARTICLE VI - SPECIAL ZONING DISTRICTS

Section 601 Special Zoning Districts

601.1 It is hereby recognized that certain areas exist within the confines of Mahanoy Township that will require special zoning districts due to the natural and physical character. These areas, in particular flood plains and excessive slope areas, have not been located on the Official Zoning Map due to the variety of unique features and conditions that may exist.

Section 602 Flood Plain District

The purpose and intent of the special flood plain district is to protect the health, safety, and general welfare of the inhabitants.

A flood plain, for the purpose of this Ordinance, shall be defined as an area that is subject to inundation with water (high water mark) in the event that the largest flood would occur once in twenty (20) years.

All floor levels, including basements and/or cellars, shall be a minimum distance of six (6) feet in elevation above the high water mark of the flood plain. The high water mark of a flood plain shall be determined and based on historical information, data provided by governmental agencies, existing construction near the area or certification of a Registered Professional Engineer submitted with his evaluation and stating the theoretical high water mark for the area under consideration.

The use of land located within a flood plain shall be limited to the following permitted uses:

- (a) Agricultural land
- (b) Recreation areas
- (c) Parking areas
- (d) Dredging or sand and gravel excavation operations subject to the regulations of Section 507.

Section 603 Slope District

603.1 The purpose and intent of the slope district is to protect the natural features of the Township. Problems involved in the slope district would be directly related to access, drainage and excessive runoff.

603.2 For the purpose of this Ordinance, a slope district is defined as an area which is being considered for development where the slope of the natural topography exceeds twenty-five (25) percent, that is, four (4) feet of horizontal distance to one (1) foot of vertical distance.

603.3 Development of areas within the slope district is prohibited with the exception that part of the area may be suitable for development and may, upon inspection and approval, be utilized for the development or construction of one (1) residence per five (5) acres, provided the area adjacent and surrounding the residence is preserved and allowed to remain in its natural state.

ARTICLE VII - NONCONFORMING LOTS, USES AND STRUCTURES

Section 701 Statement of Intent

Within the regulations established by this Ordinance or subsequent amendments thereto, there exists or will exist certain nonconformities which, if lawful before this Ordinance was passed or amended, may be continued, subject to certain limitations.

To avoid undue hardship, nothing in this Ordinance shall be deemed to require a change in the plans, construction, or designated use of any building on which actual construction was lawfully begun before the effective date of adoption or amendment of this Ordinance and on which actual building construction has been progressing.

Section 702 Nonconforming Lots of Record

In any district in which single-family residential dwellings are permitted, a single-family dwelling unit and customary accessory buildings and uses may be erected on any single lot of record at the effective date of adoption or amendment of this Ordinance, notwithstanding limitations imposed by other provisions of this Ordinance. This provision shall apply even though such a lot fails to meet the requirements for area or width, or both, that are generally applicable in the district, provided that yard dimensions and requirements, other than those applying to area or width, or both, shall conform to the regulations for the district in which the

lot is located. Variance of yard requirements shall be obtained only through action of the Zoning Hearing Board.

Section 703 Nonconforming Uses

A nonconforming use is any use, whether of a structure or tract of land or any combination thereof, which does not conform to the applicable regulations of the zoning district in which it is located, either at the time of enactment of this Ordinance or is legally established by the Zoning Hearing Board through the granting of a variance. The provisions that follow shall apply to all buildings and uses which are existing at the time of enactment of this Ordinance but do not conform to the requirements established in this Ordinance or any subsequent amendments thereto.

Any nonconforming use of structures or open space, except as specified in Section 704, may be continued by the present or any subsequent owner or owners so long as it remains lawful and subject to the following provisions:

703.1 Enlargement

A principle nonconforming use of the land or a nonconforming structure or building shall not be enlarged or extended in excess of fifty (50) percent of the existing improved land or floor area, as applicable. Such enlargement or extension shall not exceed the maximum height or maximum building coverage requirements established in Schedule II for the zoning district in which the nonconforming use is located. All such enlargements or extensions shall be approved by the Zoning Hearing Board to insure that the expansion is in compliance with the provisions of this Ordinance.

703.2 Changes or Moving of Use

A nonconforming use that is changed to a conforming use shall not thereafter be changed back to any nonconforming use. A nonconforming use may be changed to a conforming use or to a nonconforming use of a more restrictive classification only upon approval of the Zoning Hearing Board. A nonconforming use shall not be moved in whole or in part to any portion of the lot or tract of land other than that occupied by such at the effective date of adoption or amendment of this Ordinance.

Section 704 Nonconforming Structure

A nonconforming structure is any building or structure which does not conform to the zoning district regulations established in Schedule II, and which is legally existing at the time of enactment of this Ordinance or is legally established by the Zoning Hearing Board through the granting of a variance.

None of the provisions of this Article shall be deemed to prevent the normal maintenance and repair, structural alteration in, moving, reconstruction, or enlargement of a nonconforming structure provided that such action does not increase the degree of nonconformity or create new nonconformities with reference to the provisions pertaining to such structures.

Section 705 Abandonment and Termination of Nonconforming Uses

705.1 Discontinuance

When a nonconforming use is discontinued for a period of one (1) year (except where governmental action impedes access to the premises), or changed to a more restricted or conforming use for any period of time, such action shall be considered an abandonment thereof and such nonconforming use shall not thereafter be revived.

705.2 Damage

When a nonconforming use is damaged by fire or other cause, it shall be deemed to be discontinued unless action to restore the nonconforming use is undertaken within one (1) year or unless such nonconforming use is carried on without interruption in the undamaged portion of such building.

705.3 Termination

Upon a complaint registered to the Zoning Administrative Officer by fifty (50) percent of the property owners within five hundred (500) feet of a nonconforming use which is considered to be a general nuisance or a hazard to the health, safety, welfare or morals of said persons, the Zoning Hearing Board shall hold a public hearing within forty-five (45) days thereafter and make a decision with respect to the nuisance or hazardous condition which exists and shall determine the necessity of terminating such a nonconforming use. Such uses shall be terminated within a reasonable length of time, and at the expense of the owner, as shall be determined by the Zoning Hearing Board. The Zoning Hearing Board or the Board of Supervisors may take appropriate legal action if the owner fails to comply with the findings of the Zoning Hearing Board.

705.4 Junk Yards

No additional junk yards shall be established in Mahanoy Township and all existing junk yards shall be required to comply with all Ordinances now in effect in the Township of Mahanoy.

Section 706 Repairs and Maintenance

None of the above provisions of this Article shall be deemed to prevent the normal maintenance and repair of any use or structure, or the carrying out, upon issuance of a building

permit, of major structural alterations or demolitions necessary in the interest of public safety. The Zoning Administrative Officer, in granting such a building permit, shall state the precise reason why such alterations were deemed necessary.

Section 707 Registration of Nonconforming Uses

All lawful uses which, at the effective date of adoption of this Ordinance or subsequent amendments thereto, do not conform to the regulations herein established, shall be identified and registered by the Zoning Officer within one (1) year of the effective date of adoption of this Ordinance or subsequent amendments thereto.

Section 708 Unique Lots and Building Locations

708.1 Two or More Buildings on a Lot

Two or more principal buildings located on a parcel in single ownership shall conform to all the requirements of this Ordinance which, under normal conditions, would apply to each building if each were located on a separate lot.

708.2 Through Lots

Where a single lot under individual ownership extends from one street to another parallel or nearly parallel street or alley, the Planning Commission shall decide which street will be considered as the front street. No principal structure shall be erected on the rear of the lot, except as specified in Section 708.1 and 708.3.

708.3 Lots Fronting on an Alley

Individual lots, existing at the effective date of adoption of this Ordinance, fronting on an alley, shall comply with all the requirements of this Ordinance and the districts in which such lots are located.

ARTICLE VIII - ZONING HEARING BOARD

Organization and procedure

Section 801 Membership of board.

The membership of the Board shall consist of five (5) residents of the Municipality appointed by resolution by the Governing Body. The terms of office of the five (5) member board shall be five (5) years and shall be so fixed that the term of office of one (1) member of a five (5) member Board shall expire each year. The initial Board Members shall be appointed to serve one (1) for one (1) year, one (1) for two (2) years, one (1) for three (3) years, one (1) for four (4) years, and one (1) for five (5) years. The Board shall promptly notify the governing body of any vacancies which occur. Appointments to fill vacancies shall be only for the unexpired portion of the term. Members of the Board shall hold no other office in the Municipality.

Section 802 Vacancy

Whenever a vacancy has occurred by reason of the expiration of the term of any member, the governing body shall appoint a member to the Board for a term of five (5) years from the date of expiration of the prior term to succeed the member whose term has expired. Whenever a vacancy has occurred by any other reason, the Governing Body shall appoint a Member to the Board for the remaining unexpired term to succeed the member whose vacancy occurred.

Section 803 Successor

Members shall hold office until their successors have been appointed and may succeed themselves.

Section 804 Salary

Members of the Board may receive compensation for the performance of their duties, as may be fixed by the Governing Body, but in no case shall it exceed the rate of compensation authorized to be paid to the Members of the Governing Body.

Section 805 Removal

Any Board Member may be removed for malfeasance, misfeasance or nonfeasance in office or for other just cause by a majority vote of the Governing Body which appointed the Member, taken after the Member has received fifteen (15) days' advance notice of the intent to take such a vote. A hearing shall be held in connection with the vote if the Member shall request it in writing.

A Member of a Board who fails to attend three consecutive meetings of the Board may be removed by the Governing Body up to sixty (60) days after the date of the third meeting of the Board which the Member failed to attend.

Section 806 Quorum

For the conduct of any hearing and the taking of any action, a quorum shall be not less than a majority of all the Members of the Board.

Section 807 Organization

The Board may make, alter and rescind rules and forms for its procedure, consistent with Ordinances of the Municipality and laws of the Commonwealth, as it deems necessary and proper for the performance of it's duties and to the proper exercise of it's powers.

Section 808 Meetings

Meetings and hearings of the Board shall be at the call of the Chairman and at other times as the Board, by a majority vote, may determine.

Section 809 Minutes and records

The Board shall keep full stenographic records of its proceedings, and records of it's business and other official action, which records shall be the property of the Municipality, and the Board Secretary shall submit a report of its activities to the Governing Gody as requested by the Governing Body.

Section 810 Officers

The Board shall elect from its own membership its officers, who shall serve annual terms as such and may succeed themselves. The Board shall organize at it's regularly scheduled meeting in January. The offices shall be:

CHAIRPERSON - VICE CHAIRPERSON - SECRETARY

Section 811 Indemnification

The Zoning Officer and Zoning Board Members are hereby entitled to indemnification for legal damages and reasonable attorney's fees incurred in connection with their duties, and they are also entitled to be defended, so long as the Board Member reasonably believes that he was acting within the scope of his office.

ARTICLE IX - JURISDICTION

Section 901 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 properly brought before the Governing Body pursuant to sections 10609.1 and 10916.1(a)(2) of the Pennsylvania Municipalities Planning Code, as amended.

2. Challenges to the validity of a land use ordinance raising procedural questions or alleged defects in the process of enactment or adoption which challenges shall be raised by an appeal taken within thirty (30) days after the effective date of said ordinance. Where the Ordinance appealed from is the initial Zoning Ordinance of the Municipality and a Zoning Hearing Board has not been previously established, the appeal raising procedural questions shall be taken directly to court.

3. 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.

4. 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.

5. Applications for variances from the terms of the zoning ordinance and flood hazard ordinance or such provisions within a land use ordinance.

6. Applications for special exceptions under the Zoning Ordinance or Flood Plain or Flood Hazard Ordinance or such provisions within a Land Use Ordinance.

7. 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.

8. Appeals from the zoning officer's determination.

9. 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 stormwater management insofar as the same relate to

development not involving the Mahanoy Township Subdivision and Land Development Ordinance or Planned Residential Development applications.

(a) The governing body or, except as to clauses (3), (4) and (5), the planning agency, if designated, shall have exclusive jurisdiction to hear and render final adjudications in the following matters:

(1) All applications for approvals of planned residential developments.

(2) All applications for approval of subdivisions or land developments.

(3) Applications for conditional use under the express provisions of the Zoning Ordinance.

(4) Applications for curative amendment to a Zoning Ordinance pursuant to this Ordinance and Sections 609.1 and 916.1(a)(2) of the Pennsylvania Municipal Planning Code, as amended.

(5) All petitions for amendments to Land Use Ordinances. 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 the Mahanoy Township Subdivision and Land Development Ordinance and Planned Residential Development provisions of this Ordinance. Where such determination relates only to development not involving such application, the appeal from such determination of the Zoning Officer or the Municipal Engineer shall be to the Zoning Hearing Board.

Section 902 Zoning hearing board's functions; variances.

902.1 Variances

The Board shall hear requests for variances where it is alleged that the provisions of the Zoning Ordinance inflict unnecessary hardship upon the applicant. The Board may by rule prescribe the form of application and may require preliminary application to the Zoning Officer. The Board may grant a variance, provided that all of the following findings are made 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.

6. 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.

7. Upon approval of a variance, the board shall direct the Zoning Officer to issue a permit to the applicant which permit shall authorize the applicant to proceed with development in accordance with the terms of the approved variance.

Section 903 Zoning hearing board's functions; special exception.

903.1 Special Exceptions

Special Exceptions shall be permitted only upon authorization by the Zoning Hearing Board. The Board shall hear and decide requests for special exceptions in accordance with the standards and criteria set forth herein. In granting a special exception, the Board may attach such reasonable conditions and safeguards, in addition to those expressed in this Ordinance, as it may deem necessary to implement the purposes of this Zoning Ordinance and the Pennsylvania Municipalities Planning Code, as amended.

903.2 Review Criteria.

Approval of special exceptions shall be authorized only if they are found to comply with the following requirements and other applicable requirements as set forth in this Ordinance.

(a) That the use is a permitted Special Exception as set forth in Article IV hereof.

(b) That the use is so designed, located and proposed to be operated that the public health, safety, welfare and convenience will be protected.

(c) That the use will not cause substantial injury to the value of other property in the neighborhood where it is to be located.

(d) That the use shall be compatible with adjoining development and the character of the zone district where it is proposed to be located.

(e) That adequate off-street parking is provided and ingress and egress is so designed as to cause minimum interference with traffic on abutting streets.

(f) That the use conforms with all applicable regulations governing the district where located, except as may otherwise be determined for large scale development.

903.3 Special Exceptions: Affect of Filing an Application.

When an application for a special exception has been filed with the Zoning Hearing Board, and the subject matter of such application would ultimately constitute either a "land development" as defined in Section 107 or a "subdivision" as defined in Section 107 of the PA Municipalities Planning Code, Act 247, as amended, no change or amendment of the zoning, subdivision or other governing ordinance or plans shall affect the decision on such application adversely to the applicant and the applicant shall be entitled to a decision in accordance with the provisions of the governing ordinances or plans as they stood at the time the application was duly filed. Provided, further, should such an application be approved by the Zoning Hearing Board, the applicant shall be entitled to proceed with the submission of either land development or subdivision plans within a period of six (6) months or longer or as may be approved by the Zoning Hearing Board following the date of such approval in accordance with the provisions of the governing ordinance or plans as they stood at the time the application was duly filed before the Zoning Hearing Board. If either a land development or subdivision plan is so filed within said period, such plan shall be subject to the provisions of Section 508 (1) through (4) of the PA Municipalities Planning Code, Act 247, as amended, and specifically to the time limitations of Section 508 (4) which shall commence as of the date of filing such land development or subdivision plan.

Section 904 Appeals From Adverse Determinations

904.1 Appeals

All appeals from determinations adverse to the landowner shall be filed by the landowner within thirty (30) days after notice of the determination is issued.

Section 905 Causes of action.

905.1 Notice

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 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, 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 thirty (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.

Section 906 Procedure for landowner curative amendments.

906.1 Landowner Curative Amendments

A landowner who desires to challenge on substantive grounds the validity of a Zoning Ordinance or map or any provision thereof, which prohibits or restricts the use or development of land in which he has an interest may submit a curative amendment to the Governing Body with a written request that his challenge and proposed amendment be heard and decided. The Governing Body shall commence a hearing thereon within sixty (60) days of the request. The curative amendment and challenge shall be referred to the planning agency and notice of the hearing thereon shall be given. The hearing shall be conducted in accordance with this Ordinance and all references therein to the Zoning Hearing Board shall, for purposes of this section be references to the Governing Body. If a Municipality does not accept a landowner's curative amendment brought in accordance with this subsection and a court subsequently rules that the challenge has merit, the court's decision shall not result in a declaration of invalidity for the entire Zoning Ordinance and map, but only for those provisions which specifically relate to the landowner's curative amendment and challenge. The Governing Body may accept a landowner's curative amendment, with or without revision, or may adopt an alternative amendment which will cure the challenged defects. The Governing Body 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 the Ordinance or map;

3. Suitability of the site for the intensity of use proposed by the site's soils, slopes, woodland, wetlands, flood plains, aquifers, natural resources and other natural features;

4. The impact of the proposed use on the site's soils, slopes, woodland, wetlands, flood plains, natural resources and natural features, the degree 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.

Section 907 Procedure upon municipal curative amendments.

907.1 Municipal Curative Amendments

If a Governing Body determines that its Zoning Ordinance or any portion thereof is substantially invalid, it shall take the following actions:

(a) The Governing Body shall declare by formal action, its Zoning Ordinance or portions thereof substantively invalid and propose to prepare a curative amendment to overcome such invalidity. Within thirty (30) days following such declaration and proposal the governing body shall:

1. By resolution make specific findings setting forth the declared invalidity of the Zoning Ordinance which may include:

(A) References to specific uses which are either not permitted or not permitted in sufficient quantity;

(B) Reference to a class of use or uses which require revision;

(C) Reference to the entire ordinance which requires revisions.

2. Begin to prepare and consider a curative amendment to the Zoning Ordinance to correct the declared invalidity.

3. Within one hundred eighty (180) days from the date of the declaration and proposal, the municipality shall enact a curative amendment to validate, or reaffirm the validity of, its zoning ordinance in order to cure the declared invalidity of the zoning ordinance.

4. Upon the initiation of the procedures, as set forth in clause (1), the Governing Body shall not be required to entertain or consider any landowner's curative

amendment nor shall the Zoning Hearing Board be required to give a report requested subsequent to the declaration and proposal based upon the grounds identical to or substantially similar to those specified in the resolution required by clause (1)(a). Upon completion of the procedures as set forth in clauses (1) and (2), no rights to a cure pursuant to the provisions of Sections 609.1 and 916.1 shall, from the date of the declaration and proposal, accrue to any landowner on the basis of the substantive invalidity of the unamended Zoning Ordinance for which there has been a curative amendment pursuant to this section.

5. A municipality having utilized the procedures as set forth in clauses (1) and (2) may not again utilize said procedure for a thirty-six (36) month period following the date of the enactment of a curative amendment, or reaffirmation of the validity of its zoning ordinance, pursuant to clause (2); provided, however, if after the date of declaration and proposal there is a substantially new duty or obligation imposed upon the Municipality by virtue of a change in statute or by virtue of a Pennsylvania Appellate Court decision, the Municipality may utilize the provisions of this section to prepare a curative amendment to its ordinance to fulfill said duty or obligation.

Section 908 Hearings

908.1 Hearings

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

(a) 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.

(b) 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, 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. The Zoning Hearing Board may employ or contract for and fix the compensation of legal counsel, as the need arises. The legal counsel shall be an attorney other than the municipal solicitor.

(c) The first hearing before the Board or Hearing Officer shall be commenced within sixty (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 forty-five (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 hundred (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 (7) hours of hearings within the one hundred (100) days, including the first hearing. Persons opposed to the application shall complete the presentation of their opposition to the application within one hundred (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.

(d) 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.

(e) 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.

(f) 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.

(g) 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.

(h) Formal rules of evidence shall not apply, but irrelevant, immaterial, or unduly repetitious evidence may be excluded.

(i) The Board or the Hearing Officer, as the case may be, shall keep a stenographic record of the proceedings. The appearance fee for a stenographer shall be shared equally by the applicant and the board. The cost of the original transcript shall be paid by the board if the transcript is ordered by the board or hearing officer or shall be paid by the person appealing from the decision of the board if such appeal is made, and in 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.

(j) 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.

(k) 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 forty-five (45) days after the last hearing before the Board or Hearing Officer. Where the application is contested or denied, each decision shall be accompanied by findings of fact and conclusions based thereon together with the reasons therefor. Conclusions based on any provisions of 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 forty-five (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 thirty (30) days after the report of the hearing officer. Except for challenges filed under section 916.1 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 (10) 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.

(l) 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.

Section 909 Administration and Enforcement

909.1 Appointment and powers of Zoning Officer.

For the administration of a Zoning Ordinance, a Zoning Officer, who shall not hold any elective office in the Municipality, shall be appointed by the Governing Body. The Zoning

Officer shall meet qualifications established by the Governing Body and shall be able to demonstrate to the satisfaction of the Governing Body a working knowledge of municipal zoning. The Zoning Officer shall administer the Zoning Ordinance in accordance with its literal terms, and shall not have the power to permit any construction or any use or change of use which does not conform to the Zoning Ordinance. The Zoning Officer shall examine all applications for permits, issue permits for the construction, alteration, enlargement and occupancy of all uses which are in accordance with the requirements of this Ordinance and all non conforming uses, record and file all applications for permits with the accompanying plans and documents and make such reports to the Planning Commission and the Zoning Hearing Board as may be required. Permits for a variance from the requirements of this Ordinance The Zoning Officer shall be authorized to institute civil enforcement proceedings as a means of enforcement when acting within the scope of his employment.

909.2 Filing Fees

The Board of Supervisors shall establish, by resolution, a collection procedure and schedule of fees to be paid for a zoning permit. The fees shall be paid at the office of the Zoning Administrative Officer upon the filing of an application and all checks shall be made payable to the "Mahanoy Township Board of Supervisors".

Until all application fees, charges, and expenses have been paid in full, no action shall be taken on any application or appeal.

909.3 Enforcement Remedies

Any person, partnership or corporation who or which has violated or permitted the violation of the provisions of this Zoning Ordinance, upon being found liable therefor in a civil enforcement proceeding commenced by the Municipality, shall pay a judgment of not more than five hundred dollars (\$500.00) plus all court costs, including reasonable attorney fees incurred by the 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 the provisions of the Zoning Ordinance shall be paid over to the Municipality. The court of common pleas, upon petition, may grant an order of stay, upon cause shown, tolling the per diem fine pending a final adjudication of the violation and judgment. Nothing contained in this section shall be construed or interpreted to grant to any person or entity other than the Municipality the right to commence any action for enforcement pursuant to this section. District Justices shall have initial jurisdiction over proceedings brought under this section.

909.4 Public Utilities Corporation Exempted

This Ordinance shall not apply to any existing or proposed buildings, or extension thereof, used or to be used by a public utility corporation, if upon petition of the corporation, the Public Utility Commission shall, after a public hearing, decide that the present or proposed situation of a building in question is reasonably necessary for the convenience or welfare of the public.

ARTICLE X – REPEAL OF CONFLICTING ORDINANCE

1000.1 Repeal

All Ordinances or parts of Ordinances inconsistent herewith are hereby expressly repealed.

1000.2 Severability

Should any section, clause, word or provision of this Ordinance be declared by the Courts to be unconstitutional or invalid, such decisions shall not affect the validity of the Ordinance as a whole or any part other than the part so decided to be unconstitutional or invalid.

ARTICLE XI – EFFECTIVE DATE

This Ordinance shall become effective ten (10) days after the date of final passage.

Duly enacted by the Mahanoy Township Board of Supervisors, Schuylkill County, Pennsylvania, this ____ day of _____, 2007 in lawful session duly assembled.

MAHANoy TOWNSHIP
BOARD OF SUPERVISORS

Sharon Chaio – Chairperson

James Stevens - Vice Chairperson

Timothy Bradbury

ATTEST:

Cheryl Backo – Township Secretary