

Harper

ZONING ORDINANCE

HENRY CLAY TOWNSHIP FAYETTE COUNTY

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ARTICLE I

GENERAL PROVISIONS

SECTION 101 Enactment

It is hereby ordained and enacted by the Henry Clay Township Board of Supervisors of the Township of that, from and after the approval of this ordinance, the classes of districts specified herein shall be established, and the following regulations shall be in full force and effect.

SECTION 102 Short Title

This ordinance shall be known as the Henry Clay Township Zoning Ordinance, and the map shall herein be part of the ordinance and shall be known as the Henry Clay Township Zoning District Map.

SECTION 103 Effective Date

The effective date of this ordinance shall be the date of enactment of this ordinance by the Henry Clay Township Board of Supervisors.

SECTION 104 Validity and Constitutional Construction

The provisions of this act shall be severable, and should any section or provision of this ordinance be declared invalid or unconstitutional, the validity of any remaining sections or provisions shall not be declared invalid or unconstitutional. Where a section or provision is found to be invalid or unconstitutional the section or provision which enacts the higher standard for the protection of health, safety, and welfare shall prevail.

SECTION 105 Purpose and Community Development Objectives

This zoning ordinance is designed and adopted for the following purposes:

- A. To protect and promote the health, safety, and welfare of the residents of Henry Clay Township and of the public generally.
- B. To encourage the orderly growth and development of the Township in accordance with the recommendations of the Township's Master Plan.
- C. To protect and maintain the character, stability and value of the residential, business and institutional areas within the township.
- D. To provide adequate light, air, and privacy and to prevent the overcrowding of people and structures upon the land.
- E. To provide protection against fire, explosion, noxious fumes and other hazards in the interest of the public health, safety, comfort and general welfare.

- F. To encourage the most appropriate use of the land and structures throughout the Township through the establishment of land use districts and the regulation of land and structures and the construction and alteration of buildings and other structures in each district.
- G. To provide for the gradual elimination of those uses of land, buildings, and structures which do not conform to the use requirements of the district in which they are located and which adversely affect the development of other property in each district.
- H. To implement the goals, objectives and policies of the Henry Clay Township Comprehensive Plan.

SECTION 106 Municipal Self-Exemption Clause

Municipal actions carried out by Township Supervisors, the governing body of Henry Clay Township, may be exempt from the provisions of this Ordinance.

ARTICLE II TERMINOLOGY

SECTION 201 Rules for Word Usage

For the purpose of this chapter, certain words and terms used herein shall be interpreted or defined as follows: Words used in the present tense include the future; the singular includes the plural, and the plural number includes the singular; the word "person" refers to a firm, association, organization, trust, partnership, company or corporation, as well as an individual; the word "shall" is mandatory and the word "may" is permissive; the word "lot" includes "plot, piece, and parcel"; and the word "building" includes all structures; The word "used" or "occupied" as applied to any land or building shall be construed to include the words "intended, arranged, maintained or designed to be used or occupied. In case of any difference of meaning or implications between the text of this ordinance and any caption or illustration, the text shall control.

202. Definition Of Terms

ABANDONED - A building or structure which has been determined to have not received utility service, (i.e.; water, sewer, electric, gas, etc.), and has not been occupied for a period of twelve months (one year). The building or structure shall be deemed deserted.

ABANDONMENT - The relinquishment of property, of a cessation of the use of the property, by the owner or lessee without any intention of transferring rights to the property to another owner or of resuming the use of the property.

ACCESSORY BUILDING - A building which is subordinate to the main building on the lot and is used for purposes customarily incidental to the use of the main building or lot.

ACCESSORY STRUCTURE - a Structure detached from a principal building located on the same lot an customarily incidental and subordinate to the principal building or use.

ACCESSORY USE - A use of land or of a building or portion thereof customarily incidental and subordinate incidental and subordinate to the principal use of the land or building and located on the same lot with the principal use.

ACRE - A measure of land area containing 43,560 square feet.

ADDITION - (1) A structure added to the original structure at some time after the completion of the original; (2) an extension or increase in floor area or height of a building or structure.

ADMINISTRATIVE OFFICER - The designated governmental official charged with administering land development regulations.

AGRICULTURAL USES - Establishments primarily engaged in supplying soil preparation services, crop services, landscaping, horticultural services, veterinary and other animal services, and farm labor and management services. This includes sales of products on land or the sale of products produced upon the land in conjunction with the sale of other products at least 50 % of which were produced on the land.

AISLE - The traveled way by which cars enter and depart parking spaces.

ALLEY - A service roadway providing a secondary means of public access to abutting property and not intended for general traffic circulation.

ALTERATIONS, STRUCTURAL - Any interior or exterior change which would prolong the life of the supporting members of a building such as bearing walls, columns, beams, or girders.

AMERICANS WITH DISABILITIES ACT (ADA) - A 1990 federal law designed to bring disabled Americans into the economic mainstream by providing them equal access to jobs, transportation, public facilities, and services.

ANTENNA - A device used to transmit and/or receive radio or electromagnetic waves between terrestrially and/or orbitally based structures.

APARTMENT HOUSE - A structure containing three or more dwelling units.

APARTMENT UNIT - One or more rooms with private bath and kitchen facilities comprising an independent, self-contained dwelling unit in a building containing three or more dwelling units.

APARTMENT UNIT, EFFICIENCY - See Dwelling Unit, Efficiency.

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

ATTACHED DWELLING UNIT - See Dwelling, Attached

AUTOMATIC CAR WASH - A structure containing facilities for washing automobiles and automatic or semiautomatic application of cleaner, brushes, rinse water, and heat for drying.

AUTOMOBILE REPAIR, MAJOR - Engine rebuilding or major reconditioning of work or damaged motor vehicles or trailers; collision service, including body, frame or fender straightening or repair; overall painting of vehicles.

AUTOMOBILE REPAIR, MINOR - Incidental repairs; replacement of parts; motor service to automobiles; state inspection; but not including any operation specified under Automobile Repair, Major, above.

AUTOMOBILE SALES - The use of any building, land area or other premise for the display and sale of new or used automobiles generally but may include light trucks or vans, trailers, or recreational vehicles, and including any vehicle preparation or repair work conducted as an accessory use.

AUTOMOBILE SERVICE STATION - Any building, land area, or other premises, or portion thereof, used for the retail dispensing or sales of vehicular fuels; servicing and repair of automobiles; and including as an accessory use of the sale and installation of lubricants, tires, batteries, and similar vehicle accessories.

AUTOMOTIVE REPAIR SERVICES AND GARAGES - Establishments primarily engaged in furnishing automotive repair, rental, leasing, and parking services to the general public.

BAR - Premises used primarily for the sale or dispensing of liquor by the drink for on-site consumption and where food may be available for consumption on the premises as accessory to the principal use.

BASEMENT - A story partly underground, but having at least one-half of its height above the average level of the adjoining ground. A basement shall be counted as a story for the purpose of height measurement if the vertical distance between the ceiling and the average level of the adjoining ground is five (5) feet or more or if the basement is used for business or dwelling purposes.

BLOCK - A unit of land bounded by streets or by a combination of streets and public land, railroad rights-of-way, waterways, or other barrier to the continuity of development.

BOARD- Any body granted jurisdiction under a land use ordinance or under this act to render final adjudications.

BREWERY - A building or structure where alcoholic beverages are produced. This includes the sale of alcoholic beverages to persons of legal age on the premises. Distilling of alcohol is not included under this definition.

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

BUFFER - Open spaces, landscaped areas, fences, walls, berms, or any combination thereof used to physically separate or screen one use or property from another so as to visually shield or block noise, lights, or other nuisances.

BUILDABLE AREA - The area of a lot remaining after the minimum yard and open space requirements of the zoning ordinance have been met.

BUILDING - Any structure having a roof supported by columns or walls, for the shelter, housing, or enclosure of any individual, animal, process, equipment, goods or materials of any kind.

BUILDING ACCESSORY - A subordinate structure on the same lot as the principal or main building or use. See Accessory Structure.

BUILDING AREA - The aggregate of the maximum horizontal cross-section areas of all buildings on a lot above the ground level, measured at the greatest outside dimensions, excluding cornices, eaves, gutters or chimneys projecting not more than 18 inches, bay windows not extending through more than one story and not projecting more than five (5) feet, one story open porches projecting not more than then (10) feet, steps, and balconies.

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

BUILDING COVERAGE - The ratio of the horizontal area measured from the exterior surface of the exterior walls of the ground floor of all principal and accessory buildings on a lot of the total lot area.

BUILDING, HEIGHT OF - The vertical distance from finished grade to the top of the highest roof beams on a flat or shed roof, the deck level on a mansard roof, and the average distance between the eaves and the ridge level for gable, hip, and gambrel roofs.

BUILDING INSPECTOR - The individual designated by the appointing authority to enforce the provisions of the building code. Also referred to as the construction official.

BUILDING LINE - A line parallel to the street line touching that part of a building closest to the street. See Setback Line.

BUILDING MASS - the height, width, and depth of a structure.

BUILDING PERMIT - Written permission issued by the proper municipal authority for the construction, repair, alteration, or addition to a structure.

BUILDING SCALE - The relationship of a particular building, in terms of building mass, to other nearby and adjacent buildings.

BUILDING OR SET-BACK LINE - The line within a property defining the required minimum distance between any building and the adjacent right-of-way or property line. This face includes sun parlors and covered porches whether enclosed or unenclosed, but does not include walks, steps, paved areas or terraces. (DEF: Terrace - A flat roof used for open air activities.)

1. Front Set-Back Line: The line nearest the front of and across a lot establishing the minimum open space to be provided between the front line of buildings and structures and the front lot line.
2. Side Set-Back Line: The line nearest the side of and across a lot establishing the minimum open space to be provided between the side line of buildings and structures and the side lot line.

3. Rear Set-Back Line: The line nearest the rear of and across a lot establishing the minimum open space to be provided between the rear line of buildings and structures and the rear lot line.
4. Width of Building Line: The horizontal distance between side lot lines measured at the minimum prescribed front yard setback line, after any easement areas are accounted for, as set forth in this ordinance.

BULK REGULATIONS - Standards and controls that establish the maximum size of buildings and structures on a lot and the buildable area within which the building can be located, including coverage, setbacks, height, floor area ratio, and yard requirements.

CALIPER - The diameter of a tree trunk.

CAMPING VEHICLE - See Recreational Vehicle.

CANDLEPOWER - Luminous intensity expressed in candelas.

CAR WASH - See Automatic Car Wash; Automobile Wash.

CARRYOUT RESTAURANT - An establishment that by design of the physical facilities, service, or packaging sells prepared ready-to-eat foods intended primarily to be consumed off the premises. See Restaurant, Take-out.

CARTWAY - The paved area of a street between the curbs, including travel lanes and parking areas but not including shoulders, curbs, sidewalks, or swales.

CERTIFICATE OF OCCUPANCY (CO) - A document issued by a governmental authority allowing the occupancy or use of a building and certifying that the structure or use has been constructed and will be used in compliance with all the applicable municipal codes and ordinances.

CHANGE OF USE - Any use that substantially differs from the previous use of a building or land.

CHILD-CARE CENTER - An establishment providing for the care, supervision, and protection of children.

CHURCH - A building or structure, or groups of buildings or structures, that by design and construction are primarily intended for conducting organized religious services and associated accessory uses.

CIRCULATION - Systems, structures, and physical improvements for the movement of people, goods, water, air, sewage, or power by such means as streets, highways, railways, waterways, towers, airways, pipes, and conduits and the handling of people and goods by such means as terminals, stations, warehouses, and other storage buildings or transshipment points.

CLUB - A group of people organized for a common purpose to pursue common goals, interests, or activities and usually characterized by certain membership qualifications, payment of fees and dues, regular meetings, and a constitution and bylaws.

CLUSTER - A development design technique that concentrates buildings on a part of the site to allow the remaining land to be used for recreation, common open space, and preservation of environmentally sensitive features.

CLUSTER SUBDIVISION - A form of development that permits a reduction in lot area and bulk requirements, provided there is no increase in the number of lots permitted under a conventional subdivision or increase in the overall density of development, and remaining land area is devoted to open space, active recreation, preservation of environmentally sensitive areas, or agriculture.

COMMERCIAL USE - Activity involving the sale of goods or services carried out for profit.

COMMERCIAL VEHICLE - Any motor vehicle licensed by the state as a commercial vehicle.

COMMON OPEN SPACE - See Open Space, Common.

COMMON IMPACT STUDY - See Impact Analysis

COMPACT CAR - Any motor vehicle that does not exceed fifteen feet in length, bumper to bumper, and five feet, nine inches in width.

COMPREHENSIVE PLAN - See Master Plan.

CONCEPT PLAN - Informal review of a plan for development that carries no vesting rights or obligations on any party. See Plat, Sketch.

CONDITIONAL USE - A use permitted in a particular zoning district pursuant to the provisions in article VI of the Pennsylvania Municipalities Planning Code. (A use permitted in a particular zoning district upon showing that such use in a specified location will comply with all the conditions and standards for the location or operation of the use as specified in the zoning ordinance and authorized by the approving agency.)

CONDITIONAL USE PERMIT - A permit issued by the approving agency stating that the conditional use meets all conditions set forth in local ordinances.

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

CONDOMINIUM ASSOCIATION - The community association that administers and maintains the common property and common elements of a condominium.

CONFERENCE CENTER - A facility used for conferences and seminars, with accommodations for sleeping, food preparation and eating, recreation, entertainment, resource facilities, and meeting rooms.

CONSERVATION AREA - Environmentally sensitive areas with characteristics such as steep slopes, wetlands, flood plains, high water tables, forest areas, endangered species habitat, dunes, or areas of significant biological productivity or uniqueness that have been designated for protection from any activity that would significantly alter their ecological integrity, balance, or character (Planning Advisory Service Report No. 421 1989.) See Cluster Subdivision; Critical Area.

CONSTRUCTION PERMIT - Legal authorization for the erection, alteration, or extension of a structure.

CONTINUING EASEMENT - See Easement, Continuing.

CONVENIENCE STORE - Day retail establishment offering for sale prepackaged food products, household items, newspapers and magazines, and sandwiches and other freshly prepared foods, such as salads, for off-site consumption.

CONVENTION FACILITY - A building or portion thereof designed to accommodate three hundred or more people in assembly.

CONVERSION - A change in the use of land or a structure.

CORNER LOT - See Lot, Corner.

COUNTRY CLUB - Land area and buildings containing golf courses, recreational facilities, a clubhouse, and customary accessory uses, open only to members and their guests.

COUNTY MASTER PLAN - The official master plan for the physical development of a county.

COVERAGE - That percentage of the parcel or lot area that is covered by the building area, paved areas, parking and accessory structures.

CUL-DE-SAC - The turnout at the end of a dead-end street.

DAY-CARE CENTER/DAY NURSERY - See Child-Care Center

DAYCARE:

1. Child Daycare - Any premise other than the child's own home operated for profit or not for profit, in which child day care is provided at any one time to four, five, or six children who are not relatives of the care giver.
2. Elderly Daycare - Care given in a home or public structure to elderly persons who need supervision for personal needs in which meals and nursing care may or may not be directly available.

DECIBEL - A unit of sound pressure level.

DECISION-Final adjudication of any board or other body granted under jurisdiction under any land use ordinance or this act to do so, either by reason of the grant of exclusive jurisdiction or by reason of appeals from determinations. All decisions shall be applicable to the court of common pleas of the county and the jurisdictional district wherein the municipality lies.

DEDICATION, FEE IN LIEU OF - Payments in cash as an alternative to dedication of land or construction of improvements.

DENSITY - The number of families, individuals, dwelling units, households, or housing per unit of land.

DENSITY MODIFICATION FACTOR - See Cluster Subdivision

DENSITY TRANSFER - The transfer of all or part of the permitted density on a parcel to another parcel.

DESIGN REVIEW - The submission of a site or building design for review by the design review body constituted to comment or make recommendations on the design or to grant approval.

DESIGN STANDARDS - A set of guidelines defining parameters to be followed in site and/or building design and development.

DETENTION BASIN (POND) - A facility for the temporary storage of stormwater runoff.

DETERMINATION - A final action by an officer, body or agency charged with the administration of any land use ordinance or application thereunder, except the following:

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

Determinations shall be appealable only to the boards designated as having the jurisdiction for such appeal.

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

DISTRICT, ZONING - A section of the Township for which uniform regulations governing the use, height, area, and intensity of use of buildings and land and open spaces about buildings are herein established and referenced on the Township Zoning Map.

DWELLING - Any structure, or part thereof, designed to be occupied as living quarters as a single housekeeping unit.

1. Detached House: A dwelling unit occupying the whole of a freestanding residential structure.
2. Two Household or Semi-Detached House: A residential structure occupied by two (2) dwelling units with a common wall.
3. Duplex: A residential structure divided horizontally into two (2) dwelling units.
4. Row House or Town House: A structure with two (2) or more party walls of three (3) or more units not having any horizontal division between units.
5. Apartment: A dwelling unit separated horizontally and/or vertically from one or more other units in a structure.
 - a. Apartment House or Multi-Household Dwelling Unit: A residential structure containing three (3) or more dwelling units.
 - b. Garden Apartment: An apartment house not exceeding three (3) stories in height.

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

ENVIRONMENTAL IMPACT STATEMENT (EIS) - A statement of the effect of proposed development and other major private or governmental actions, on the environment.

ENVIRONMENTALLY SENSITIVE AREA - See Critical Area.

EXISTING USE - The use of a lot or structure at the time of the enactment of a zoning ordinance.

FAMILY - A group of individuals not necessarily related by blood, marriage, adoption, or guardianship living together in a dwelling unit as a single housekeeping unit under a common housekeeping management plan based on an intentionally structured relationship providing organization and stability.

FARM OR FARMLAND - A parcel of land used for agricultural activities.

FARM STRUCTURE - Any building or structure used for agricultural purposes.

FAST-FOOD RESTAURANT - An establishment whose principal business is the sale of prepared or rapidly prepared food directly to the customer in a ready-to-consume state for consumption either within the restaurant building, in cars on the premises, or off the premises.

FEASIBILITY STUDY - An analysis of a specific project or program to determine if it can be successfully carried out.

FENCE - An artificially constructed barrier of any material or combination of materials erected to enclose, screen, or separate areas.

FENCE, LIVING - A planted visual barrier provided along a property line consisting of low-level shrubs, hedges, or similar landscape screening materials, but excluding trees.

FIRE LANE - An unobstructed paved or improved surface area clearly defined by pavement markings and signs, at least twelve feet wide and designed to provide access for fire-fighting equipment.

FISCAL IMPACT ANALYSIS (FIA) - An analysis of the costs and revenues associated with a specific development application.

FLAG LOT - See Lot, Flag.

FLOOD - The temporary overflowing of water onto land that is usually devoid of surface water.

FLOOD FRINGE AREA - That portion of the flood hazard area outside of the floodway based on the total area inundated during the regulatory base flood plus 25 percent of the regulatory base flood discharge.

FLOOD HAZARD AREA - The flood plain consisting of the floodway and the flood fringe area. See Flood Plain.

FLOOD PLAIN - The channel and the relatively flat area adjoining the channel of a natural stream or river that has been or may be covered by floodwater.

FLOOR AREA - The sum of the gross horizontal areas of the several floors of a building or structure from the exterior face of exterior walls, or from the centerline of a wall separating two buildings, but excluding any space where the floor-to-ceiling height is less than six feet.

FLOOD AREA, GROSS - the sum of the gross horizontal areas of the several floors of a building or structure from the exterior face of exterior walls, or from the centerline of a wall separating two buildings, but excluding any space where the floor-to-ceiling height is less than six feet.

FLOOD AREA, NET - The total of all floor areas of a building, excluding stairwells and elevator shafts, equipment rooms, interior vehicular parking and loading; and all floors below the first or ground floor, except when used or intended to be used for human habitation or service to the public.

FOOTCANDLE - The unit of illumination when the foot is the unit of length.

FOUNDATION - Permanent base or substructure of a building that is totally or more than one half of its clear height below the average level of the surrounding ground. It is the basic support of the building or

structure.

FRONT LINE - See Lot Line, Front.

FRONT YARD - See Yard, Front.

FRONTAGE - That side of a lot abutting on a street; the front lot line.

FUNERAL RELATED SERVICES - A business established for the disposition of human remains including funeral homes, crematories, cemeteries, and mausoleums.

GARAGE - A deck, building, or parking structure, or part thereof, used or intended to be used for the parking and storage of vehicles.

GARAGE, COMMUNITY - A garage used exclusively for parking and storage of vehicles owned or operated by residents of nearby dwelling units and their guests, which it is not operated as a commercial enterprise and is not available to the general public and which is operated by such residents.

GARAGE, MUNICIPAL - A structure owned or operated by a municipality and used primarily for the parking and storing of vehicles owned by the general public.

GARAGE, PRIVATE CUSTOMER AND EMPLOYEE - A structure that is accessory to a non-retail commercial or manufacturing establishment, building, or use and is primarily for the parking and storage of vehicles operated by the customers, visitors, and employees of such building and that is not available to the general public.

GARAGE, PRIVATE RESIDENTIAL - A structure that is accessory to a residential building and that is used for the parking and storage of vehicles owned and operated by the residents thereof and that is not a separate commercial enterprise available to the general public.

GARAGE, PUBLIC - A structure, or portion thereof, other than a private customer and employee garage or private residential garage, used primarily for the parking and storage of vehicles and available to the general public.

GARAGE, REPAIR - Any building, premises, and land in which or upon which a business, service, or industry involving the maintenance, servicing, repair, or painting of vehicles is conducted or rendered. See Automotive Repair Services and Garages.

GARDEN APARTMENT - See Dwelling, Garden Apartment.

GASOLINE STATION - See Automotive Service Station.

GOLF COURSE - A tract of land laid out for at least nine holes for playing the game of golf and improved with tees, greens, fairways, and hazards and that may include a clubhouse and shelter. See Country Club.

GOVERNING BODY - The elected Township Supervisors of the Township of Henry Clay.

GREEN AREA - Land shown on a development plan, master plan, or official map for conservation, preservation, recreation, landscaping, or park.

GROSS FLOOR AREA - See Floor Area, Gross and Net.

HEALTH CARE FACILITY - A facility or institution, whether public or private, principally engaged in providing services for health maintenance and the treatment of mental or physical conditions. See Health Services.

HEALTH CLUB - An establishment that provides facilities for aerobic exercises, running and jogging, exercise equipment, game courts, swimming facilities, and saunas, showers, massage rooms, and lockers.

HEARING - An administrative proceeding conducted by a board pursuant to section 909.1 of the Pennsylvania Municipalities Planning Code.

HEIGHT - The vertical distance of a structure measured from the average elevation of the finished grade surrounding the structure to the highest point of the structure. See Building Height.

HELIPORT - An area, either at ground level or elevated on a structure, licensed by the federal government or an appropriate state agency and approved for the loading, landing, and takeoff of helicopters and including auxiliary facilities, such as parking, waiting room, fueling, and maintenance equipment.

HOME OCCUPATION - Any activity carried out for gain by a resident and conducted as a customary, incidental, and accessory use in the resident's dwelling unit. Retail and Wholesale of goods and services is not considered as a home occupation.

HOME PROFESSIONAL OFFICE - A home occupation consisting of the office of a practitioner of a recognized profession. See Home Occupation.

HOMEOWNERS ASSOCIATION - A community association, other than a condominium association, that is organized in a development in which individual owners share common interests and responsibilities for costs and upkeep of common open space or facilities.

HOMES FOR THE AGED - See Adult Retirement Community; Assisted Living Facility; congregate Residences; Continuing Care Retirement Community; Housing for the Elderly; Residential Health Care Facility; Retirement Community.

HOTEL - A facility offering transient lodging accommodations to the general public and providing additional services, such as restaurants, meeting rooms, entertainment, and recreational facilities. See Boarding House; Inn; Motel; Resort; Tourist Home.

HOUSE TRAILER - See Manufactured Housing.

HOUSEHOLD - A family living together in a single dwelling unit, with common access to and common use of all living and eating areas and all areas and facilities for the preparation and serving of food within the dwelling unit. See Family.

HOUSING UNIT - A room or group of rooms used by one or more individuals living separately from others in the structure, with direct access to the outside or to a public hall and containing separate bathroom and kitchen facilities. See Dwelling Unit.

INCENTIVE ZONING - the granting by the approving authority of additional development capacity in exchange for the developer's provision of a public benefit or amenity.

INDUSTRIAL PARK - A tract of land that is planned, developed, and operated as an integrated facility for a number of individual industrial uses, with consideration to transportation facilities (rail and highway), circulation, parking, utility needs, aesthetics, and compatibility.

INDUSTRIAL, LIGHT - Industrial uses that meet the performance standards, bulk controls, and other requirements established in an ordinance. Light industrial uses are permitted in the Commercial/Light Industrial Zoning District.

INFILL DEVELOPMENT - See Odd-Lot Development.

INFRASTRUCTURE - Facilities and services needed to sustain industry, residential, commercial, and all other land use activities.

INN - A commercial facility for the housing and feeding of transients.

JUNK - Any scrap, waste, reclaimable material, or debris, whether or not stored, for sale or in the process of being dismantled, destroyed, processed, salvaged, stored, baled, disposed, or other use or disposition.

LAND - Ground, soil, or earth, including structures on, above, or below the surface.

LAND DEVELOPMENT - Any of the following activities which involves 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 or more residential or nonresidential buildings, whether proposed initially or cumulatively, or a single non-residential 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 or more existing or prospective occupants by means of, or for the purpose of streets, common areas, leaseholds, condominiums, building groups or other features.
3. A subdivision of land.

4. The conversion of single household dwellings to multi-household dwellings.
5. Any additions made to a main building or accessory structure on a lot.

LANDSCAPE - (1) An expanse of natural scenery; (2) lawns, trees, plants. And other natural materials, such as rock and wood chips, and decorative features, including sculpture, patterned walks, fountains, and pools.

LANDSCAPE PLAN - A component of a development plan on which is shown: proposed landscape species (Such as number, spacing, size at time of planting, and planting details); proposals for protection of existing vegetation during and after construction; proposed treatment of hard and soft surfaces; proposed decorative features; grade changes; buffer and screening devices; and ant other information that can reasonably be required in order that an informed decision can be made by the approving authority.

LAND USE ORDINANCE- Any ordinance or map adopted pursuant to Articles IV, V, VI, and VII of the Pennsylvania Municipalities Planning Code(Act 247 of 1968 as amended by Act 131 of 1992).

LIGHT INDUSTRY - See Industry, Light.

LOADING SPACE - A space within the main building or on the same lot therewith providing for the standing, loading, or unloading of vehicles.

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

LOT, BUILDING AREA OF - That portion of a conforming or non-conforming lot bounded by the required yards. When a yard is not required, the boundary is the lot line.

LOT, BUILDING LINE OF - The line that bounds the buildable area of the lot, including front, rear and side building lines exclusive of any easement.

LOT, CONFORMING - A lot occupied or unoccupied by building or structures, fronting on a public street or a street in a plan of land subdivision, and having such area and open spaces thereon as are required by this chapter for one (1) of the uses permitted in the district in which it is located.

LOT, CORNER - A lot or parcel of land abutting upon two or more streets at their intersection or upon tow parts of the same street forming an interior angle of less than 135 degrees.

LOT, DEPTH - The distance between the front and rear lot lines, perpendicular or radial to the Right Of Way line, measured along the median between the two (2) side lot lines.

LOT, FLAG - A large lot not meeting minimum frontage requirements and where access to the public road is by a narrow, private right-of-way or driveway.

LOT, IMPROVED - (1) A lot upon which a building can be constructed and occupied; (2) a lot with buildings or structures.

LOT, INTERIOR - A lot other than a corner lot.

LOT, RECORDED - A lot designated on a plot or subdivision duly recorded pursuant to the statute with the Recorder of Deeds of Fayette County. A "recorded lot" may or may not coincide with a conforming lot or a non-conforming lot.

LOT, REVERSE FRONTAGE - A through lot that is not accessible from one of the parallel or nonintersecting streets upon which it fronts.

LOT, THROUGH - A lot that front upon two parallel streets or that fronts upon two streets that do not intersect at the boundaries of the lot.

LOT, WIDTH - The horizontal distance between the side lot lines measured along the front and rear building lines of the lot as determined by the prescribed front yard requirement.

LOT AREA - The total area within the lot lines of a lot, excluding any streets rights-of-way.

LOT AVERAGING - A design technique permitting one or more lots in a subdivision be undersized, providing the same number of lots in the same subdivision are oversized by an equal or greater area.

LOT COVERAGE - That portion of the lot that is covered by buildings. See Building Coverage.

LOT DEPTH - The average distance measured from the front lot line to the rear lot line.

LOT FRONTAGE - The length of the front lot line measured at the street right-of-way line.

* **LOT LINE** - A line of record bounding a lot that divides one lot from another lot or from a public or private street or any other public space.

* **LOT LINE, FRONT** - The lot line separating a lot from a street right-of-way.

LOT LINE, REAR - The lot line opposite and most distant from the front lot line. In the case of triangular or otherwise irregularly shaped lots, a line ten feet in length entirely within the lot, parallel to and at a maximum distance from the front lot line.

LOT LINE, SIDE - Any lot line other than a front or rear lot line.

LOT OF RECORD - A lot that exists as shown or described on a plat or deed in the records of the local registry of deeds.

LOT WIDTH - The horizontal distance between the side lines of a lot measured at right angles to its depth along a straight line parallel to the front lot line at the maximum required building setback line.

MAINTENANCE GUARANTEE - Any security that may be required and accepted by a governmental agency to assure that necessary improvements will function as required for a specific period of time. See Performance Guarantee.

MANUFACTURED HOUSING - Factory-built, single-family structures that meet the National Manufactured Home Construction and Safety Standards Act (42 U.S.C. Sec. 5401), commonly known as the HUD (U.S. Department of Housing and Urban Development) code.

MAP, OFFICIAL - See Official Map.

MARQUEE - Any hood, canopy, awning, or permanent construction that projects from a wall of a building, usually above an entrance.

MASTER PLAN - A comprehensive, long-range plan intended to guide the growth and development of a community or region that typically includes inventory and analytic sections leading to recommendations for the community's future economic development, housing, recreation and open space, transportation, community facilities, and land use, all related to the community's goals and objectives for these elements.

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

MID-RISE - A building of three to seven stories. See Dwelling, Mid-Rise.

MINI-MALL - A shopping center of between 80,000 to 150,000 square feet on a site of eight to fifteen acres where tenants are located on both sides of a covered walkway with direct pedestrian access to all establishments from the walkway. See Shopping Center; Shopping Mall; Specialty Shopping Center.

MIXED-USE DEVELOPMENT - The development of a tract of land, building, or structure with a variety of complementary and integrated uses, such as, but not limited to, residential, office, manufacturing, retail, public, or entertainment, in a compact urban form.

MIXED-USE ZONING - Regulations that permit a combination of different uses within a single development.

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

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

MOBILE HOME PARK - A parcel or contiguous parcels of land which has been so designated and improved that it contains two or more mobile home lots for the placement thereon of mobile homes. (A site containing spaces with required improvements and utilities that are leased for the long-term placement of manufactured houses and that may include services and facilities for the residents. See Manufactured Housing.)

MODULAR UNIT, (MODULAR HOME) - A unit transported on a removable or non-removable frame, in which some or all of the component parts are fabricated, formed or assembled off-site in a factory, transported to the site for assembly and installed on the building site with a permanent foundation. The term includes "module," "prefab," "factory built," "panel built," and similar other terms. The completed unit shall comply with building code standards for conventionally constructed units; the modular unit is considered real property. The completed unit's kitchen sink must display the seal of the Pennsylvania Department of Community and Economic Development..

MOTEL - An establishment providing sleeping accommodations with a majority of all rooms having direct access to the outside without the necessity of passing through the main lobby of the building.

MOTION PICTURE THEATER - A place where motion pictures are shown to the public for a fee.

MULTIUSE BUILDING - A building containing two or more distinct uses.

MUNICIPALITY - The political subdivision that can adopt and enforce the development ordinances if so empowered by state legislation.

NET AREA OF LOT (NET ACREAGE) - The are of the lot excluding those features or areas that the development ordinance excludes from the calculations.

NIGHTCLUB - An establishment dispensing liquor and meals and in which music, dancing, or entertainment is conducted.

NOISE - An undesired audible sound.

NOISE POLLUTION - Continuous or episodic excessive noise in the human environment.

NONCONFORMING LOT - A lot, the area, dimensions, or location of which was lawful prior to the adoption, revision, or amendment of the zoning ordinance but that fails by reason of such adoption, revision, or amendment to conform to the present requirements of the zoning ordinance.

NONCONFORMING SIGN - Any lawful existing on the effective date of an ordinance, or amendment thereto, that renders such sign nonconforming because it does not conform to all the standards and regulations of the adopted or amended ordinance.

NONCONFORMING STRUCTURE OR BUILDING - A structure or building, the size, dimensions, or location of which was lawful prior to the adoption, revision, or amendment to the zoning ordinance but that fails by reason of such adoption, revision, or amendment to conform to the present requirements of the zoning district.

NONCONFORMING USE - A use, whether of land or of structure, which does not comply with the applicable use provisions in a zoning ordinance or amendment heretofore or hereafter enacted, where such use was lawfully in existed prior to the enactment of such ordinance or amendment, or prior to the application of such ordinance or amendment to its location by reason of annexation. (A use or activity that was lawful prior to the adoption, revision or amendment of the zoning ordinance but that fails by reason of such adoption, revision, or amendment to conform to the present requirements of the zoning district.

NURSERY - Land or greenhouses used to raise flowers, shrubs, and plants for sale. See Greenhouse.

NURSERY SCHOOL - See Child-Care Center.

NURSING HOME - See Extended Care Facility; Intermediate Care Facility; Long-Term care Facility.

OCCUPANCY or OCCUPIED - The residing of an individual or individuals overnight in a dwelling unit of the storage or use of equipment, merchandise, or machinery in any public, commercial or industrial building.

OCCUPANCY PERMIT - A required permit allowing the use of a building or structure after it has been determined that all the requirements of applicable ordinances have been met.

ODOROUS MATTER - Any material that produces an olfactory response that is offensive to most members of the population.

OFFICE BUILDING - A building used primarily for conducting the affairs of a business, profession, service, industry, or government, or like activity, and may include ancillary services for office workers, such as a restaurant, coffee shops, newspaper or candy stand, and child-care facilities.

OFFICE PARK - A development on a tract of land that contains a number of separate office buildings, accessory and supporting uses, and open space designed, planned, constructed, and managed on an integrated and coordinated basis.

OFFICE AT HOME - A home occupation in which a part of a dwelling unit is used as the resident's office. See Home Occupation.

OFFICIAL MAP - A map adopted pursuant to Article IV of the Pennsylvania Municipalities Planning Code. (An ordinance in map form adopted by the governing body that conclusively shows the location and width of proposed streets, public facilities, public areas, and drainage rights-of-way.)

PLANNED RESIDENTIAL DEVELOPMENT (PRD) - An area of land, controlled by a landowner, to be developed as a single entity for a number of dwelling units, or combination of residential and non-residential uses, the development plan for which does not correspond in lot size, bulk, type of dwelling, or use, density, or intensity, lot coverage, and required open space to the regulations established in any one district created, from time to time, under the provisions of the municipal zoning ordinance act. (An area of minimum contiguous size, as specified by ordinance, to be planned, developed, operated, and maintained as a single entity and containing one or more residential clusters; appropriate commercial, public, or quasi-public uses may be included if such uses are primarily for the benefit of the residential development.)

PLANNED UNIT DEVELOPMENT (PUD) - An area of minimum contiguous size, as specified by ordinance, to be planned, developed, operated, and maintained as a single entity and containing one or more public, quasi-public, commercial, or industrial areas in such ranges or ratios of nonresidential uses as specified in the ordinance.

PLANNING COMMISSION - The duly designated planning board of the municipality, county, or region.

PREEXISTING USE - The use of a lot or structure prior to the time of the enactment of a zoning ordinance.

PRINCIPAL BUILDING - See Building, Principal.

PRIVATE CLUB - A building and related facilities owned or operated by a corporation, association, or group of individuals established for the fraternal, social, educational, recreational, or cultural enrichment of its members and not primarily for profit and whose members pay dues and meet certain prescribed qualifications for membership.

PRIVATE SCHOOL - See School, Private.

PROFESSIONAL OFFICE - The office of a member of a recognized profession maintained for the conduct of that profession.

PROHIBITED USE - A use that is not permitted in a zone district.

PROPERTY - A lot, parcel, or tract of land together with the building and structures located thereon.

PROPERTY LINE - See Lot Line.

PROTECTIVE COVENANT - See Restrictive Covenant.

PUBLIC AREAS - Parks, playgrounds, trails, paths, and other recreational areas and open spaces; scenic and historic sites; schools and other places where the public is directly or indirectly invited to visit or permitted to congregate.

PUBLIC BUILDING - Any building structure, facility, or complex used by the general public, whether constructed by any state, county, or municipal government agency or instrumentality or any private individual, partnership, association, or corporation including, but not limited to, assembly buildings, such as auditoriums, libraries, public eating places, schools and theaters; business buildings, such as offices; and factories and industrial buildings.

PUBLIC HEARING- A formal meeting held pursuant to public notice by the governing body, planning agency, or zoning hearing board, intended to inform and obtain public comment, prior to taking actions.

PUBLIC MEETING-A forum (meeting) held pursuant to the act of July 3, 1986 (P.L.388, NO 84), known as the "Sunshine Act".

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

PUBLIC UTILITY - A closely regulated enterprise with a franchise for providing to the public a utility service deemed necessary for the public health, safety, and welfare.

REAR LOT LINE - See Lot Line, Rear.

REAR YARD - See Yard, Rear.

RECREATION FACILITY - A place designed and equipped for the conduct of sports and leisure-time activities.

RECREATION FACILITY, COMMERCIAL - A recreation facility operated as a business and open to the public for a fee.

RECREATION FACILITY, PERSONAL - A recreation facility provided as an accessory use of the same lot as the principal permitted use and designed to be used primarily by the occupants of the principal use and their guests.

RECREATION FACILITY, PRIVATE - A recreation facility operated by a nonprofit organization and open only to bona fide members and guests of such nonprofit organization.

RECREATION, PUBLIC - A recreation facility open to the general public.

RECREATIONAL DEVELOPMENT - A residential development planned, maintained, operated, and integrated with a major recreation facility, such as a golf course, ski resort, or marina.

RECREATIONAL VEHICLE - A vehicle-type portable structure without permanent foundation that can be towed, hauled, or driven and primarily designed as a temporary living accommodation for recreational, camping, and travel use and including.

RELIGIOUS USE - A structure or place in which worship, ceremonies, rituals, and education pertaining to a particular system of beliefs are held.

REPAIR GARAGE - See Garage, Repair.

REPORT- Any letter, review, memorandum, compilation or similar writing made by any body, board, officer or consultant other than a solicitor to any other body, board, officer or consultant for the purpose of assisting the recipient of such report in the rendering of any decisions or determination. All reports shall be deemed recommended, mandatory and advisory only and shall not be binding upon the recipient, body, board, officer, or agency rendering a determination or decision shall be made available for inspection to the applicant and all other parties to any proceeding upon request, and copies thereof shall be provided at the cost of reproduction.

RESEARCH LABORATORY - An establishment or other facility for carrying on investigation in the natural, physical, or social sciences, which may include engineering and product development.

RESIDENTIAL CLUSTER - A form of planned residential development to be developed as a single entity according to a plan and containing residential housing units that have a private or public open space area as an appurtenance. See Cluster.

RESIDENTIAL DENSITY - The number of dwelling units per acre of residential land.

RESIDENTIAL HEALTH CARE FACILITY (RHCF) - Residences usually occupied by the frail elderly that provide rooms, meals, personal care, and health monitoring services under the supervision of a professional nurse and that may provide other services, such as recreational, social, and cultural activities, financial services, and transportation.

RESIDENTIAL UNIT - See Household.

REST HOME - See Nursing Home.

RESTAURANT - An establishment where food and drink are prepared, served, and consumed primarily within the principal building. See Restaurant, Take-out; Retail Food Establishment.

RESTAURANT, DRIVE-IN - See Restaurant, Take-out.

RESTAURANT, TAKE-OUT - An establishment where food and/or beverages are sold in a form ready for consumption, where all or significant portion of consumption takes place or is designed to take place outside the confines of the restaurant, and where ordering and pickup of food may take place from an automobile.

RETAIL FOOD ESTABLISHMENT, MOBILE - A vehicle, normally a van, truck, towed trailer, or pushcart, from which food and beverages are sold.

RETAIL OUTLET STORE - A retail establishment selling a single manufacturer's product.

RETAIL SALES - Establishments engaged in selling goods or merchandise to the general public for personal or household consumption and rendering services incidental to the sale of such goods.

RETAIL SALES, OUTDOOR - The display and sale of products and services primarily outside of a building or structure, including vehicles, garden supplies, gas, tires and motor oil, food and beverages, boats and aircraft, farm equipment, motor homes, burial monuments, building and landscape materials, and lumber yards.

RETAIL SERVICES - Establishments providing services or entertainment, as opposed to products, to the general public for personal or household use, including eating and drinking places, hotels and motels, finance, real estate and insurance, personal service, motion pictures, amusement and recreation services, health, educational, and social services, museums, and galleries.

RETAIL WAREHOUSE OUTLET - Retail operation from a warehouse as an accessory use to the principal warehouse use.

RETIREMENT COMMUNITY - Any age-restricted development, which may be in any housing form, including detached and attached dwelling units, apartments, and residences, offering private and semiprivate rooms.

REVERSE FRONTAGE - See Lot, Reverse Frontage.

SATELLITE DISH ANTENNA - A device comprised of a reflective surface that is solid, open mesh, or bar-configured and is in the shape of a shallow dish, cone or horn. Such device shall be used to transmit or receive radio or similar type signals between terrestrially and/or Earth orbiting satellites. This definition is meant to include but is not limited to what are commonly referred to as satellite Earth stations, TVRO's (Television Reception Only), and microwave antennas.

SATELLITE EARTH STATION ANTENNA - A parabolic or dish-shaped antenna or any other apparatus or device that is designed for the purpose of receiving radio waves.

SCHOOL - Any building or part thereof which is designed, constructed, or used for education or instruction in any branch or knowledge. A public or private facility having its principal purpose the transmittal of knowledge.

SCHOOL, ELEMENTARY - Any school licensed by the state and that meets the state requirements for elementary education.

SCHOOL, PAROCHIAL - A school supported and controlled by a church or religious organization. See School, Private.

SCHOOL, PRIVATE - Any building or group of buildings the use of which meets state requirements for elementary, secondary, or higher education and which use does not secure the major part of its funding from any governmental agency.

SCHOOL, SECONDARY - Any school licensed by the state and that is authorized to award diplomas for secondary education.

SCHOOL, VOCATIONAL - See Vocational School.

SCHOOL DISTRICT - A district that serves as a unit for state financing and administration of elementary and secondary schools.

SCREENING - (1) A method of visually shielding or obscuring one abutting or nearby structure or use from another by fencing, walls, berms, or densely planted vegetation; (2) the removal of relatively coarse floating and/or suspended solids by straining through racks or screens.


SEASONAL, DWELLING UNIT - A dwelling unit that lacks one or more of the basic amenities or utilities required for all-year or all-weather occupancy.


SEASONAL STRUCTURE - A temporary covering erected over a recreational amenities, such as a swimming pool or tennis court, for the temporary of extending its use to cold weather months of inclement conditions.

SEASONAL USE - A use carried on for only a part of the year, such as outdoor golfing, swimming during the summer months or skiing during the winter months.

SELF-SERVICE STORAGE FACILITY - A structure containing separate, individual, and private storage spaces of varying sizes leased or rents on individual leases for varying periods of time.

SERVICES - Establishments primarily engaged in providing assistance, as opposed to products, to individuals, business, industry, government, and other enterprises, including hotels and other lodging places; personal, business, repair, and amusement services; health, legal, engineering, and other professional services; educational services; membership organizations; and other miscellaneous services. See Business Services; Retail Services; Social Services.

 **SETBACK** - The distance between the building and lot line.

 **SETBACK LINE** - The line that is the required minimum distance from any lot line and that establishes the area within the principal structure must be erected or placed. See Building Line.

SHADE TREE - A tree, usually deciduous, planted primarily for overhead canopy.

SHARED DRIVEWAY - A single driveway serving two or more adjoining lots.

SHARED PARKING - See Parking, Shared.

SHED - A building or structure used as a storage place or workshop and should have a maximum square footage of 400 square feet and a maximum height of 15 feet.

SHOPPING CENTER - A group of commercial establishments planned, constructed, and managed as a total entity, with customer and employee parking provided on-site, provision for goods delivery separated from customer access, aesthetic considerations and protection from the elements, and landscaping and signage in accordance with an approved plan.

SHOPPING MALL - A shopping center with stores on both sides of an enclosed or open pedestrian walkway.

SIDE YARD - See Yard, Side.

SIGN - Any object, device, display, or structure, or part thereof, situated outdoors or indoors, which is used to advertise, identify, display, direct, or attract attention to an object, person, institution, organization, business, product, service, event, or location by any means, including words, letters, figures, design, symbols, fixtures, colors, illumination, or projects images.

SIGN ANIMATED OR MOVING - Any sign or part of a sign that changes physical position or light intensity by any movement or rotation or that gives the visual impression of such movement or rotation.

SIGN, AWNING, CANOPY, OR MARQUEE - A sign that is mounted, painted, or attached to an awning, canopy, or marquee that is otherwise permitted by ordinance.

SIGN, BENCH - A sign painted, located on, or attached to any part of the surface of a bench, seat, or chair placed on or adjacent to a public place or roadway.

SIGN, BILLBOARD - A sign that directs attention to a business, commodity, service, or entertainment conducted, sold, or offered at a location other than the premises on which the sign is located.

SIGN, BULLETIN BOARD - A sign that identifies an institution or organization on the premises of which it is located and that contains the name of the institution or organization, the names of individuals connected with it, and general announcements of events or activities accruing at the institution or similar messages.

SIGN, BUSINESS - A sign which directs attention to a business, or profession conducted, or to a commodity or service sold, offered, or manufactured, or to an entertainment offered on the premises where the sign is located.

SIGN, CONSTRUCTION - A temporary sign erected on the premises on which construction is taking place, during the period of such construction, indicating the names of the architects, contractors or similar artisans, and the owners, financial supporters, sponsors, and similar individuals or firms having a role or interest with respect to the structure or project.

SIGN, DIRECTIONAL - Signs limited to directional messages, principally for pedestrian or vehicular traffic, such as "one-way," "entrance," and "exit."

SIGN, DIRECTORY - A sign listing the tenants or occupants of a building or group of buildings and that may indicate their respective professions or business activities.

SIGN, FACADE - See Sign, Wall.

SIGN, FACE - The area or display surface used for the message.

SIGN, FLASHING - Any directly or indirectly illuminated sign that exhibits changing natural or artificial light or color effects by any means whatsoever.

SIGN, FREESTANDING - any non-movable sign not affixed to a building.

SIGN, GOVERNMENTAL - A sign erected and maintained pursuant to and in discharge of any governmental functions or required by law, ordinance, or other governmental regulation.

SIGN, GROUND - Any sign, other than a pole sign, in which the entire bottom is in contact with or is close to the ground and is independent of any other structure.

SIGN, HOLIDAY DECORATION - Temporary signs, in the nature of decorations, clearly incidental to and customarily and commonly associated with any national, local, or religious holiday.

SIGN, HOME OCCUPATION - A sign containing only the name and occupation of a permitted home occupation.

SIGN, IDENTIFICATION - A sign giving the nature, logo, trademark, or other identifying symbol; address; or any combination of the name, symbol, and address of a building, business, development, or establishment on the premises where it is located.

SIGN, ILLUMINATED - A sign lighted by or exposed to artificial lighting either by lights on or in the sign or directed toward the sign.

SIGN, INFLATABLE - Any display capable of being expanded by air or other gas and used on a permanent or temporary basis to advertise a product or event.

SIGN, MEMORIAL - A sign, tablet, or plaque memorializing a person, event, structure, or site.

SIGN, NAMEPLATE - A sign located on the premises, giving the name or address, or both, of the owner or occupant of a building or premises.

SIGN, OFF-PREMISES - See Sign, Billboard.

SIGN, ON-SITE INFORMATIONAL - A sign commonly associated with, and not limited to, information and directions necessary or convenient for visitors coming on the property, including signs marking entrances and exits, parking areas, circulation direction, rest rooms, and pickup and delivery areas.

SIGN, POLE - A sign that is mounted on a freestanding pole or other support so that the bottom edge of the sign face is six feet or more above grade.

SIGN, POLITICAL - A temporary sign announcing or supporting political candidates or issues in connection with any national, state, or local election.

SIGN, PORTABLE - A sign that is not permanent, affixed to a building, structure, or the ground.

SIGN, PRIVATE SALE OR EVENT - A temporary sign advertising private sales of personal property, such as "house sales," "garage sales," "rummage sales," and the like, or private not-for-profit events, such as picnics, carnivals, bazaars, game nights, or art fairs, craft shows, and Christmas tree sales.

SIGN, PROJECTING - A sign that is wholly or partly dependent upon a building for support and that projects more than twelve (12) inches from such building.

SIGN, REAL ESTATE - A sign pertaining to the sale or lease of the premises, or a portion of the premises, on which the sign is located.

SIGN, ROOF - A sign that is mounted on the roof of a building or that is dependent upon a building for support and that projects above the top walk or edge of a building with a flat roof, the eave line of a building with a gambrel, gable, or hip roof, or the deck line of a building with a mansard roof.

SIGN, SUSPENDED - A sign hanging down from a marquee, awning, or porch that would exist without the sign.

SIGN, TEMPORARY - A sign or advertising display constructed of cloth, canvas, fabric, plywood, or other light material and designed or intended to be displayed for a short period of time.

SIGN, WALL - A sign fastened to or painted on the wall of a building or structure in such a manner that the wall becomes the supporting structure for, or forms the background surface of, the sign and that does not project more than twelve (12) inches from such building or structure.

SIGN AREA - The entire face of a sign, including the advertising surface and any framing, trim, or molding but not including the supporting structure.

SIGN CONTROL - Regulations on the number, size, location, height, color, materials, lighting, and content of signs.

SIGN PROJECTION - On a sign attached to a wall, the distance from the exterior wall surface to the sign element farthest distance from such surface.

SPECIAL EXCEPTION - A use permitted in a particular zoning district pursuant to the provisions of Articles VI and IX of the Pennsylvania Municipalities Planning Code.

SPECIALTY FOOD STORE - A retail store specializing in a specific type or class of foods, such as an appetizer store, bakery, butcher, delicatessen, fish market, or gourmet store.

SPECIALTY SHOPPING CENTER - (1) A shopping center whose stores cater to a specific market and are linked together by an architectural, historical, or geographic theme or by a commonality of goods and services; also known as a theme or fashion center; (2) A retail center of between 100,000 to 200,000 square feet consisting mostly of small shops with distinctive, one-of-a-kind merchandise with emphasis on arts and crafts supplied locally. See Mini-Mall; Shopping Center.

SPECIFICATIONS - Detailed instructions that designate the quality and quantity of materials and workmanship expected in the construction of a structure.

STALL - The parking space in which vehicles park.

STORY, HALF - A space under a sloping roof that has the line of intersection of the roof and wall face not more than three (3) feet above the floor level and in which space the possible floor area with head room of five feet or less occupies at least forty (40) percent of the total area of the story directly beneath.

STUDIO APARTMENT - See Dwelling Unit, Efficiency.

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

STRUCTURE, HEIGHT OF - (other than a building), The vertical measured distance from the adjacent finished grade level to the highest point of the structure.

SUPERMARKET - A retail establishment primarily selling food as well as other convenience and household goods.

SWIMMING POOL, PRIVATE - A water filled enclosure, permanently constructed or portable, having a depth of more than eighteen (18) inches below the level of the surrounding land, or an above-surface pool, having a depth of more than thirty (30) inches, designed, used, and maintained for swimming and bathing..

TAVERN - An establishment used primarily for the serving of liquor by the drink to the general public and where food or packaged liquors may be served or sold only as accessory to the primary use.

TAX ABATEMENT - Full or partial exemption for a defined period of time of real estate taxes.

TAX MAP - The recorded map of delineated lots or tracts in a municipality showing boundaries, bearings, sizes, and dimensions, including the block and lot numbers.

TEMPORARY STRUCTURE - A structure without any foundation or footings and that is removed when the designated time period, activity, or use for which the temporary structure was erected has ceased.

TEMPORARY USE - A use establishment for a limited duration with the intent to discontinue such use upon the expiration of the time period.

THEATRE - A building or part of a building devoted to showing motion pictures or for dramatic, dance, musical, or other live performances.

TRAILER - A structure standing on wheels, towed or hauled by another vehicle, and used for short-term human occupancy, carrying of materials, goods, or objects, or as a temporary office.

TRANSFER OF DEVELOPMENT RIGHTS (RTD) - The attaching of development rights to specific lands which are desired by a municipality to be kept undeveloped, but permitting those rights to be transferred from those lands so that the development potential which they represent may occur on other lands where more intensive development is deemed appropriate. See Density Transfer.

USE - The purpose or activity for which land or buildings are designed, arranged, or intended or for which land or buildings are occupied or maintained.

USE, ACCESSORY - See Accessory Use.

USE, CONDITIONAL - See Conditional Use.

USE, EXISTING - See Existing Use.

USE, INHERENTLY BENEFICIAL - See Inherently Beneficial Uses.

USE, INSTITUTIONAL - See Institutional Use.

USE, PERMITTED - See Permitted Use.

USE, PRINCIPAL - See Principal Use.

USE, RELIGIOUS - See Religious Use.

USE, TEMPORARY - See Temporary Use.

USE, TRANSITIONAL - See Traditional Use.

USE, VARIANCE - See Variance, Use.

USER CHARGES - A requirement of government under which those that benefit directly from a particular service pay all or part of the cost.

UTILITY, PRIVATE OR PUBLIC - (1) Any agency that, under public franchise or ownership, or under certificate of convenience and necessity, or by grant of convenience and necessity, or by grant of authority by a governmental agency, provides the public with electricity, gas, heat, steam, communication, transportation, water, sewage collection, or other similar service; (2) a closely regulated enterprise with a franchise for providing a needed service, See Public Utility.

VARIANCE - Relief granted pursuant to the provisions of Articles VI and IX.(Permission to depart from the literal requirements of a zoning ordinance).

VARIANCE, BULK - A departure from any provision of a zoning ordinance except use. See Variance, Hardship.

VARIANCE, HARDSHIP - A departure from the provisions of a zoning ordinance relating to setbacks, side yards, frontage requirements, and lot size that, if applied to a specific lot, would significantly interfere with the use of the property.

VARIANCE, USE - A variance granted for a use or structure that is not permitted in the zone.

VEHICLE, MOTOR - A self-propelled device used for transportation of people or goods over land surfaces and licensed as a motor vehicle.

VEHICLE, OFF-ROAD (ORV) - Vehicles designed for use on a variety of non-improved surfaces and including dune buggies and all-terrain vehicles, snowmobiles, trail bikes, mopeds, and motor bikes.

VEHICLE, RECREATIONAL - See Recreational Vehicle.

WADING POOL - An aboveground or in-ground structure containing less than eighteen inches of water.

WAREHOUSE - A building used for the storage of goods and materials.

WINERY - A building or land that produces wine. This includes the sale of products produced on the land and regulated by the Pennsylvania Liquor Control Board.

YARD - An open space that lies between the principal building or buildings and the nearest lot line. The minimum required yard as set forth in the ordinance is unoccupied and unobstructed from the ground upward except as may be specifically provided in the zoning ordinance. See buildable Area; Lot Line; Yard Depth; Yard Lines.

YARD, FRONT - A space extending the full width of the lot between any building and the front lot line and measured perpendicular to the building at the closest point to the front lot line.

YARD, REQUIRED - A space extending across the full width of the lot between the principal building and the rear lot line and measured perpendicular to the building to the closest point of the rear lot line. See Comment under Yard, Front.

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

ZERO LOT LINE - The location of a building on a lot in such a manner that one or more of the building's sides rest directly on a lot line.

ZONING - The delineation of districts and the establishment of regulations governing the use, placement, spacing and size of land and buildings.

ZONING APPEALS - The Zoning Board hears and decides requests by landowners or persons aggrieved who believe that any officer or agency of the municipality made a decision or issued an order that is not authorized by or is contrary to the ordinance.

ZONING BOARD - See Board of Adjustment.

ZONING DISTRICT - See Zone.

ZONING HEARING BOARD - A multiple member board, appointed by the Henry Clay Township Supervisors, to hear appeals and challenges under Section 909.1(a) of the Pennsylvania Municipalities Planning Code, and hear challenges to the validity of the Zoning Ordinance or Map.

ZONING OR LAND USE ORDINANCE - Any ordinance or map adopted pursuant to the authority granted in Articles IV, V, VI, and VII of the Pennsylvania Municipalities Planning Code.

ZONING MAP - The map or maps that are a part of the zoning ordinance and delineate the boundaries of zone district.

ZONING OFFICER - The administrative officer designated to administer the zoning ordinance and issue zoning permits.

ZONING PERMIT - A document signed by a zoning officer, as required in the zoning ordinance, as a condition precedent to the commencement of a use, or the erection, construction, reconstruction, restoration, alteration, conversion, or installation of a structure or building, that acknowledges that such use, structure, or building complies with the provisions of the municipal zoning ordinance or unauthorized variance therefrom.

ARTICLE III

SECTION 301 Establishment of Zoning Districts

To carry out the purpose of this chapter, Henry Clay Township is hereby divided into six (6) zoning districts. These districts shall be designated as follows:

<u>FULL NAME</u>	<u>SHORT NAME</u>
Agricultural District	AG District
Commercial Flex Light Industrial District	C/LI District
Low Density Residential District	R-1 District
Two-Household Residential District	R-2 District
Multi-Use District	MU District
Conservation/Recreation	CR District

SECTION 302 Specific purpose of each zoning districts

AG Agricultural District

This land use/ zone has been established to preserve the farmlands for which the township was once noted. Agricultural and low-density residential development should be prevalent in this zone. Minimum lot size for agricultural and residential uses shall be large tracts of land primarily used for various types of farming. The Agricultural and single-household detached dwelling units are suggested as the principal permitted uses in this district.

C/LI Commercial Flex Light Industrial District

Encouraging retail activity and community oriented commercial services is the aim of this zoning district. Local businesses that are geared toward serving the local year round residents. All establishments should be required to have rear loading access via a service street or alley, sufficient parking, landscaping and lighting. Sidewalks and street furniture are encouraged at shopping centers and commercial strips. This zone has been created to provide areas for assembly, processing and small scale manufacturing. Access to Interstate Highways such as 68 and 76 are the basis for establishing this type of land use in the township. Light industrial development should strengthen the local tax base as well. Due to the amount of existing commercial uses in the current Manufacturing Zone; commercial uses should be considered as permitted as lesser uses in this zone.

Lesser permitted uses in the R-1, CR, and AG Zoning Districts are permitted in this district.

R-1 Residential District

The aim of this district is to retain a rural character and allow for residential development in areas that do not have public infrastructure. Due to the lack of public sewer and water, development is proposed to occur in lots large enough to support both a potable water well and a septic system.

Geological constraints such as slope and soil type are other factors that contribute to the land use/zoning classification.

R-2 Residential District

The district was established to encourage single household dwelling units in areas serviced by public water and sewer at a higher net density than that in the R-1 Residential district. Maximum net densities in this district are capped at two single household dwelling units per acre. This district permits both single household attached and detached dwelling units. Higher density developments may be required to provide public water and sewer (both sanitary and storm) in order to justify the individual lot sizes.

MUMulti-Use District

This district is designed to promote a variety of commercial and residential developments at various scales, intensities, densities, and land uses without disturbing the rural atmosphere and quality of life that the township residents enjoy. This district will require conflicting land uses to be screened from one another by natural and vegetative buffers. Landscaping, lighting, off street parking, noise, odor, and open space provisions should be required for each development. High density residential uses such as high rise apartments are principal permitted uses in this zone.

CR Conservation/ Recreation District

In order to address the issues of conservation, open space and recreation, this zone has been established. It is designed to protect the land areas that are dedicated to the preservation of natural areas and enhance both active and passive recreational areas and facilities.

Due to standards for slope control, geological condition testing and other physiological factors on proposed development sites open space will occur naturally in each Zone without constituting a Taking. This will not disturb any existing businesses or homes.

Utilization of existing topography for infrastructure layout will benefit both the township and developer in terms of maintenance, installation and permitting costs.

Section 303 Zoning District Map

The locations and boundaries of the districts enumerated in Section 301 are hereby established as shown upon the map attached to this document. It shall be designated as the "Official Zoning Map." The zoning map and all information shown thereon are hereby made a part of this Article and this Ordinance. The "Official Zoning Map" shall be dated and shall carry the signature of the Township Secretary certifying that it is the true map adopted by the Henry Clay Township Board of Supervisors.

The "Official Zoning Map" shall be maintained by the Zoning Officer at the Municipal Building. For informational purposes, a Zoning Map is attached to this ordinance, but in the event of any dispute between the informational map and the ordinance, or the official map at the Municipal Building, the "Official Zoning Map" shall control.

SECTION 304 District Boundaries

- A. Boundaries indicated as approximately following natural features or the center lines of streets, highways or alleys shall be constructed to follow such center lines.
- B. Boundaries indicated as approximately following the boundary line of a recorded lot or separate parcel of land shall be constructed as following said line of recorded lot or parcel of land.
- C. Boundaries indicated as approximately following township boundaries shall be constructed as to follow said township boundaries.
- D. Boundaries indicated by measured distances on the zoning map shall be determined by such dimensions. Distances not specifically indicated on the zoning map shall be determined by the a Geographic Location System (GPS) which determines exact latitude and longitudes.
- E. District boundaries will allow for any parcel conveyed by a single deed shall be deemed to be in the least restrictive zoning district.

SECTION 305 Principal Uses on Residential Lots

There shall be one (1) principal and permitted use on a legally sized and dimensioned lot in all Residential Zones.

ARTICLE IV

SECTION 400

Provisions for Zoning Districts

The following regulations shall supplement the Zoning Regulations appearing henceforth in this Ordinance:

PROVISIONS GOVERNING SINGLE HOUSEHOLD RESIDENTIAL ZONING DISTRICTS

Section 401 R-1 Residential District

A. Permitted Uses

Agricultural Uses
Single-household detached dwelling units

Public Areas and Buildings
Planned Residential Developments

B. Conditional Uses

Home Occupations
Public Utilities
Breweries

Home Offices
Wineries
Distilleries

C. Accessory Uses

As permitted in Section 1103 of this ordinance

D. Special Exception Uses

Group Residence Facilities

E. Buffer Yards

As required by Section 1113 of this ordinance

F. Fences

As required by Section 1107 of this ordinance

G. Yard Setbacks

No structure may be built, constructed, or enlarged unless the following minimum yard setback requirements will be complied with:

1. Front: 50 Feet
2. Rear: 20 Feet
3. Side: 20 Feet

Corner Lot:

1. Front Yard Depth: 50 Feet
2. Rear Yard Depth: 50 Feet
3. Side Yard Depth adjacent to street: 50 Feet
4. Side Yard Depth not adjacent to street: 50 Feet.

H. Height Requirements

The height of structures erected or enlarged after the effective date of this ordinance shall not exceed the height requirements of this subsection for the uses listed in subsections A, B, and D of this section:

1. Maximum Height:
 - a. Single-Household Detached Dwelling Units-Two and one-half (2 1/2) stories with a maximum height of thirty-five (35) feet
 - b. Other permitted, conditional and special exception uses-Three stories(3) with a maximum height of forty (40) feet.
 - c. Accessory Buildings-One (1) story with a maximum height of fifteen (15) feet.
2. For projections which rise above the height limits of towers, steeples, flagpoles, and similar such structures, see Article XI, Section 1106

I. Lot Area and Percentage of Lot Coverage

1. Minimum lot area for Single-household detached dwelling units: Two (2) Acres
2. Maximum structure coverage: twenty percent (20 %) of the total lot area

3. Minimum lot width: Two hundred (200') feet, non conforming lot.

J. Off Street Parking and Loading Requirements

Off Street Parking and Loading shall conform with Article XI, Section 1110

K. Satellite Dishes

As defined in Section 1108 of this ordinance

L. Signs

As defined in Section 1109 of this ordinance

M. Temporary Uses

As defined in Section 1112 of this ordinance

PROVISIONS GOVERNING TWO HOUSEHOLD RESIDENTIAL ZONING DISTRICTS

SECTION 501 R-2 Residential District

A. Permitted Uses

Agricultural Uses
Public Areas and Buildings
Single-household detached dwelling units
Townhouses

Condominiums
Planned Developments
Single-household Attached Dwelling Units

B. Conditional Uses

Home Occupations
Public Utilities
Breweries

Home Offices
Wineries

C. Accessory Uses

As permitted in Section 1103 of this ordinance

D. Special Exception Uses

Group Residence Facilities

E. Buffer Yards

As required by Section 1113 of this ordinance

F. Fences

As required by Section 1107 of this ordinance

G. Yard Setbacks

No structure may be built, constructed, or enlarged unless the following minimum yard setback requirements will be complied with:

1. Front: 50 Feet
2. Rear: 20 Feet
3. Side: 20 Feet

H. Corner Lot:

1. Front Yard Depth: 50 Feet
2. Rear Yard Depth: 20 Feet
3. Side Yard Depth adjacent to street: 50 Feet
4. Side Yard Depth not adjacent to street: 20 Feet

H. Height Requirements

The height of structures erected or enlarged after the effective date of this ordinance shall not exceed the height requirements of this subsection for the uses listed in subsections A, B, and D of this section:

1. Maximum Height:

- a. Single-Household Detached Dwelling Units-Two and one-half (2 1/2) stories with a maximum height of thirty-five (35) feet
- b. Other permitted, conditional and special exception uses-Three stories(3) with a maximum height of forty (40) feet.
- c. Accessory Buildings-One (1) story with a maximum height of fifteen (15) feet.

2. For projections which rise above the height limits of towers, steeples, flagpoles, and similar such structures, see Article XI, Section 1106

For erection of structures above the height limits of the district, See Article XI, Section 1106

I. Lot Area and Percentage of Lot Coverage

1. Minimum lot area for Single-household detached dwelling units: One (1) acre
2. Maximum structure coverage: Twenty percent (20 %) of the total lot area
3. Minimum lot width: One hundred fifty (150) feet, non conforming lot see Article XII, Section 1207

J. Off Street Parking and Loading Requirements

Off Street Parking and Loading shall conform with Article XI, Section 1110

K. Satellite Dishes

As defined in Section 1108 of this ordinance

L. Signs

As defined in Section 1109 of this ordinance

M. Temporary Uses

As defined in Section 1112 of this ordinance

ARTICLE VI

SECTION 600 Provisions for Commercial/Light Industrial Flex Zoning Districts

The following regulations shall supplement the Zoning Regulations appearing henceforth in this Ordinance:

Owners of commercial lots smaller than five (5) acres zoned under Henry Clay Township Zoning Ordinance 78-03 as amended may preserve the commercial status of their undersized lots by writing a letter to the township advising the township of an intent to grandfather their lot's commercial status. The lot and block number of the property need to be declared in the letter. The right to grandfather commercial status shall apply regardless of the use of the lot at the time of enactment of this ordinance. Land owners desiring commercial status to grandfather lots less than five (5) acres must do so in writing within 180 days of the enactment of this ordinance.

SECTION 601 C/LI Commercial Light Industrial Flex Zoning District

A. Permitted Uses

Automobile Sales	Garden Apartments
Automobile, Repair, Major	Group Homes/ Care Facilities
Automobile, Repair, Minor	Hotels
Automobile, Repair, Garage	Hotels
Automobile, Service Station	High Rise Apartments
Bakeries	Laundries
Banks	Mini Malls
Bars	Motels
Breweries	Movie Theaters
Cafes	Nightclubs
Car Washes	Public Areas and Buildings
Child Care facilities	Professional offices
Country Clubs	Restaurants
Communication Towers	Restaurant, Fast Food
Conference Center	Restaurant, Carryout
Dry Cleaners	Single-household detached dwelling units
Drug Stores	Single-household Attached Dwelling Units
Garages, Bus	Shopping Centers
Garages, Public	Taverns
Gasoline Stations	Theaters
Grocery Stores	Retail Sales
Health Clubs	Wineries
Radio/Television Broadcasting	Skilled Trade Shops
Plumbing	Carpentry
Electronics	Metal works

Arts & Craft Manufacture and Sale
Processing agricultural products
Funeral Related Businesses

Schools
Food processing
Distilleries

B. Conditional Uses

Assembly
Light Industrial uses
Manufacturing
Warehousing

Home Occupations
Home Offices
Public Utilities

C. Special Exception Uses

Senior Citizen Housing Developments

Saw Mills (on tracts less than 20 acres)

D. Accessory Uses

As permitted in Section 1103 of this ordinance

E. Buffer Yards

As required by Section 1113 of this ordinance

F. Fences

As required by Section 1107 of this ordinance

G. Yard Setbacks

No structure may be built, constructed, or enlarged unless the following minimum yard setback requirements will be complied with:

1. Front: 100 Feet
2. Rear: 50 Feet
3. Side: 50 Feet

Corner Lot:

1. Front Yard Depth: 100 Feet
2. Rear Yard Depth: 50 Feet
3. Side Yard Depth adjacent to street: 100 Feet
4. Side Yard Depth not adjacent to street: 50 Feet

H. Height Requirements

The height of structures erected or enlarged after the effective date of this ordinance shall not exceed the height requirements of this subsection for the uses listed in subsections A, B, and D of this section:

1. Maximum Height:

- a. Single-Household Detached Dwelling Units-Two and one-half (2 1/2) stories with a maximum height of thirty-five (35) feet
- b. Other permitted, conditional and special exception uses-Three stories(3) with a maximum height of forty (40) feet.
- c. Accessory Buildings-One (1) story with a maximum height of fifteen (15) feet.

2. For projections which rise above the height limits of towers, steeples, flagpoles, and similar such structures, see Article XI, Section 1106

3. For erection of structures above the height limits of the district, See Article XI, Section 1106

I. Lot Area and Percentage of Lot Coverage

- 1. Minimum lot area for Commercial/Light Industrial: Five (5) acres
- 2. Maximum structure coverage: Fifty percent (50%) of the total lot area
- 3. Minimum lot width: Two hundred (200) feet, non conforming lot see Article XII, Section 1207

J. Off Street Parking and Loading Requirements

Off Street Parking and Loading shall conform with Article XI, Section 1110

K. Satellite Dishes

As defined in Section 1108 of this ordinance

L. Signs

As defined in Section 1109 of this ordinance

M. Temporary Uses

As defined in Section 1112 of this ordinance

ARTICLE VII

SECTION 700 Provisions for Agricultural Zoning Districts

The following regulations shall supplement the Zoning Regulations appearing henceforth in this Ordinance:

SECTION 701 AG Agricultural District

A. Permitted Uses

Agricultural Uses
Greenhouses
Group Care Facilities
Breweries

Public Areas and Buildings
Nurseries
Single-household detached dwelling units
Wineries

B. Conditional Uses

Home Occupations
Public Utilities

Home Offices
Planned Developments

C. Accessory Uses

As permitted in Section 1103 of this ordinance

D. Special Exception Uses

E. Buffer Yards

As required by Section 1113 of this ordinance

F. Fences

As required by Section 1107 of this ordinance

G. Yard Setbacks

No structure may be built, constructed, or enlarged unless the following minimum yard setback requirements will be complied with:

1. Front: 100 Feet
2. Rear: 50 Feet
3. Side: 20 Feet

Corner Lot:

1. Front Yard Depth: 100 Feet
2. Rear Yard Depth: 50 Feet
3. Side Yard Depth adjacent to street: 100 Feet
4. Side Yard Depth not adjacent to street: 50 Feet

H. Height Requirements

The height of structures erected or enlarged after the effective date of this ordinance shall not exceed the height requirements of this subsection for the uses listed in subsections A, B, and D of this section:

1. Maximum Height:
 - a. Single-Household Detached Dwelling Units-Two and one-half (2 1/2) stories with a maximum height of thirty-five (35) feet
 - b. Other permitted, conditional and special exception uses-Three stories(3) with a maximum height of forty (40) feet.
 - c. Accessory Buildings-One (1) story with a maximum height of fifteen (15) feet.
2. For projections which rise above the height limits of towers, steeples, flagpoles, and similar such structures, see Article XI, Section 1106
3. For erection of structures above the height limits of the district, See Article XI, Section 1106

I. Lot Area and Percentage of Lot Coverage

1. Minimum lot area for Single-household detached dwelling units: Ten (10) acres
2. Maximum structure coverage: Ten percent (10%) of the total lot area
3. Minimum lot width: Five hundred (500) feet, non conforming lot see Article XII, Section 1207

J. Off Street Parking and Loading Requirements

Off Street Parking and Loading shall conform with Article XI, Section 1110

K. Satellite Dishes

As defined in Section 1108 of this ordinance

L. Signs

As defined in Section 1109 of this ordinance

M. Temporary Uses

As defined in Section 1112 of this ordinance

ARTICLE VIII

SECTION 800 Provisions for Conservation and Recreational Zoning Districts

The following regulations shall supplement the Zoning Regulations appearing henceforth in this Ordinance:

SECTION 801 CR Conservation/ Recreational District

A. Permitted Uses

Dedicated conservation areas
Golf courses
Public Areas and Buildings

Parks
Recreation areas and facilities
Recreation, commercial

B. Conditional Uses

Home Occupations
Public Utilities

Home Offices
Wineries

C. Accessory Uses

As permitted in Section 1103 of this ordinance

D. Special Exception Uses

E. Buffer Yards

As required by Section 1113 of this ordinance

F. Fences

As required by Section 1107 of this ordinance

G. Yard Setbacks

No structure may be built, constructed, or enlarged unless the following minimum yard setback requirements will be complied with:

1. Front: 50 Feet
2. Rear: 50 Feet
3. Side: 20 Feet

Corner Lot:

1. Front Yard Depth: 50 Feet
2. Rear Yard Depth: 50 Feet
3. Side Yard Depth adjacent to street: 50 Feet
4. Side Yard Depth not adjacent to street: 20 Feet

H. Height Requirements

The height of structures erected or enlarged after the effective date of this ordinance shall not exceed the height requirements of this subsection for the uses listed in subsections A, B, and D of this section:

1. Maximum Height:
 - a. Single-Household Detached Dwelling Units-Two and one-half (2 1/2) stories with a maximum height of thirty-five (35) feet
 - b. Other permitted, conditional and special exception uses-Three stories(3) with a maximum height of forty (40) feet.
 - c. Accessory Buildings-One (1) story with a maximum height of fifteen (15) feet.
2. For projections which rise above the height limits of towers, steeples, flagpoles, and similar such structures, see Article XI, Section 1106
3. For erection of structures above the height limits of the district, See Article XI, Section 1106

I. Lot Area and Percentage of Lot Coverage

1. Minimum lot area for Single-household detached dwelling units: Two (2) acres
2. Maximum structure coverage: Twenty percent (20%) of the total lot area
3. Minimum lot width: One hundred (100) feet, non conforming lot see Article XII, Section 1207

J. Off Street Parking and Loading Requirements

Off Street Parking and Loading shall conform with Article XI, Section 1110

K. Satellite Dishes

As defined in Section 1108 of this ordinance

L. Signs

As defined in Section 1109 of this ordinance

M. Temporary Uses

As defined in Section 1112 of this ordinance

ARTICLE IX

SECTION 900 Provisions for Mixed Use Zoning Districts

The following regulations shall supplement the Zoning Regulations appearing henceforth in this Ordinance:

SECTION 901 MU Mixed Use Zone

A. Permitted Uses

Automobile Sales	Garden Apartments
Bakeries	Group Homes and Care Facilities High Rise
Apartments	
Banks Single-household detached dwelling units	High Rise Apartments
Cafes Townhouses	Laundries
Communication Towers	Motels
Conference center	Movie Theaters
Professional offices	Public Areas and Buildings
Day cares	Restaurants
Dry cleaners Public Areas and Buildings	Single-household Attached Dwelling Units
Drug stores	Sexually Oriented Businesses (As per Section 514)
Garages, Private	Shopping Centers
Garages, Public	Mobile Homes
Gasoline stations	Mobile Home Parks
Garages, Bus	Public Utilities
Grocery stores	Recreation Areas and Facilities

B. Conditional Uses

C. Accessory Uses

As permitted in Section 1103 of this ordinance

D. Special Exception Uses

E. Buffer Yards

As required by Section 1113 of this ordinance

F. Fences

As required by Section 1107 of this ordinance

G. Yard Setbacks

No structure may be built, constructed, or enlarged unless the following minimum yard setback requirements will be complied with:

1. Front: 100 Feet
2. Rear: 100 Feet
3. Side: 50 Feet

Corner Lot:

1. Front Yard Depth: 100 Feet
2. Rear Yard Depth: 100 Feet
3. Side Yard Depth adjacent to street: 100 Feet
4. Side Yard Depth not adjacent to street: 50 Feet

H. Height Requirements

The height of structures erected or enlarged after the effective date of this ordinance shall not exceed the height requirements of this subsection for the uses listed in subsections A, B, and D of this section:

1. Maximum Height:
 - a. Single-Household Detached Dwelling Units-Two and one-half (2 1/2) stories with a maximum height of thirty-five (35) feet
 - b. Other permitted, conditional and special exception uses-Three stories(3) with a maximum height of forty (40) feet.
 - c. Accessory Buildings-One (1) story with a maximum height of fifteen (15) feet.
2. For projections which rise above the height limits of towers, steeples, flagpoles, and similar such structures, see Article XI, Section 1106
3. For erection of structures above the height limits of the district, See Article XI, Section 1106

- (f) The feasibility of proposals for the disposition of sanitary waste and stormwater and the approval of the Henry Clay Township Supervisors.
- (g) The substance of covenants, grants or easements or other restrictions proposed to be imposed upon the use of the land, buildings and structures, including proposed easements or grants for public utilities.
- (h) The provisions for parking of vehicles and the location and width of proposed streets and public ways.
- (i) The required modifications in the municipal land use regulations otherwise applicable to the subject property.
- (j) In the case of development plans which call for development over a period of years, a schedule showing the proposed times within which application for final approval of all sections of the planned residential development are intended to be filed. This schedule must be updated annually, on the anniversary of its approval, until the development is completed and accepted.
- (k) The application for tentative approval of a planned residential development shall include a written statement by the landowner setting forth the reasons why, in his opinion, a planned residential development would be in the public interest and would be consistent with the Henry Clay Township Comprehensive Plan for the development of the municipality.

B. Preliminary review. The Henry Clay Township Supervisors shall forward one (1) copy each of the preliminary application to the Henry Clay Township Planning Commission, to a Henry Clay Township Planning Commission consultant, to the Township Engineer, the Fayette County Office of Planning and Community Development, and the Fayette County Health Department. The Henry Clay Township Supervisors shall not approve the preliminary application until reports from each of these agencies have received or until the expiration of thirty (30) days from the date the copies of the application for development were forwarded to said agencies.

C. Public hearings. The Supervisors shall hold a public hearing as required by law within sixty (60) days of the filing of the preliminary application for a development plan.

D. Criteria for tentative approval. The Supervisors may give tentative approval to a proposed development plan if, and only if, it is found to meet the following criteria:

- (1) The proposed development plan complies with all standards and conditions of Article I, preserves the community development objectives of this Article and is found by the Supervisors to be consistent with the accepted community development objectives.
- (2) Where the proposed development plan provides standards varying from those in this chapter and the subdivision regulations otherwise applicable to the subject property, provided such departure is in the public interest and promotes the health, safety and general welfare of the public.

- (3)The proposals for the maintenance and conservation of any proposed common open space are reliable, and the amount and extent of improvements of the remaining land are appropriate with respect to the purpose, use and type of residential development proposed.
- (4)The physical design of the proposed development plan adequately provides for the public service, traffic facilities and parking, light, air, recreation and visual enjoyment.
- (5)The total environment of the proposed development plan is harmonious and consistent with the neighborhood in which it is located. The flexibility of design innovation and imagination of the site plan is clearly evident.
- (6)The proposed development plan will afford a greater degree of protection of natural watercourses, topsoil, trees and other features of the natural environment and prevention of erosion, landslides, siltation and flooding than if subject property were developed in accordance with the provisions of this chapter and the Subdivision Ordinance which otherwise apply.
- (7)In the case of a development plan which proposes development over a period of years, the terms and conditions intended are sufficient to protect the interests of the public and of the residents of the planned residential development in the integrity of the development plan.

E. Grant or denial of tentative approval. The Henry Clay Township Board of Supervisors shall render their decision not later than sixty (60) days after the conclusion of the public hearing.

- (1)The decision of the Henry Clay Township Board of Supervisors shall be in writing and shall be given to the Developer personally or mailed to him at his last known address not later than five (5) days following the decision.
- (2)The supervisors may:
 - (a)Grant tentative approval of the development plan as submitted;
 - (b)Grant tentative approval subject to specified conditions not included in the development plan as submitted; or
 - (c)Deny approval of the development plan.
- (3)The grant or denial of tentative approval shall include findings of fact related to the proposed development plan as submitted for approval; and the reasons for the decision shall be set forth with particularity in what respect the proposed development plan would or would not be in the public interest, including, but not limited to, each of the above criteria.
- (4)In the event that the development plan is granted tentative approval with or without conditions, the Supervisors may set forth in the official written communications the time within which an application for final approval of the development plan shall be filed or, in the case of a development plan which provides for development over a period of years, the periods of time within which applications for final approval of each part thereof shall be filed. Except upon the consent of the landowner, the time so established between grant of tentative approval and an application for final approval shall not be less than three (3) months, and, in the case of development over a period of years, the time between applications for final approval of each part

of a plan shall not be less than twelve (12) months.

- (5) If the developer chooses to reject any conditions attached to the grant of tentative approval, he may void such tentative approval by notifying the Supervisors within thirty (30) days of the decision of the Supervisors.
- (6) The grant of tentative approval shall be revoked by the Henry Clay Township Board of Supervisors if they are notified by the developer of his intention to abandon the proposed development plan. The grant of tentative approval shall be deemed to be revoked if the developer does not submit an application for final approval within the time limits required by law.

F. Status of plan after tentative approval.

- (1) The official written communication provided for in this Article shall be certified by the Secretary or Clerk of the governing body 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 Henry Clay Township Zoning Map.
- (2) Tentative approval of a development plan shall not qualify a plat 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 as submitted or 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 municipality, provided that an application for final approval is filed or, in the case of development over a period of years, provided that applications are filed, within the periods of time specified in the official written communication granting tentative approval.
- (3) 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 governing body in writing, or in the event the landowner shall fail to file application or applications for final approval within the required period of time, 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 Henry Clay Township Zoning Map and in the records of the Secretary or Clerk of the municipality.

G. Application for final approval

- (1) An application for final approval may be for all of the land included in a development plan or, to the extent set forth in the tentative approval, for a section thereof. Said application shall be filed with the Henry Clay Township Board of Supervisors not later than six (6) months following the grant of tentative approval. The Henry Clay Township Board of Supervisors may grant an extension of time upon written request from the applicant.
- (2) The application for final approval shall include all data required for final plats as specified in the Subdivision Ordinance, including construction drawings, specifications, covenants, easements and deed restrictions, and shall incorporate any conditions or modifications as set forth in the official written communication at the time of tentative approval. Approvals from applicable state, county

and federal agencies must also be included.

H. Guaranty of improvements. No development plan shall be finally approved unless a guaranty that the improvements will be installed by the owner is presented to the Supervisors in the form of a bond or deposit of funds or securities in escrow in the amount of one hundred percent (100%) of the cost of the improvements which may be required. Such guaranty shall provide for and secure to the public the completion of all declared improvements for the stage within a period of three (3) years from the date of the final approval of the development plan of the stage.

I. Final review. The Henry Clay Township Board of Supervisors shall forward one (1) copy each of the application for final approval to the Henry Clay Township Planning Commission, the Henry Clay Township Engineer, the Fayette County Office of Planning and Community Development, to a township planning consultant and the Fayette County Health Department. The Henry Clay Township Board of Supervisors shall not approve the final application until reports from each of these agencies have been received or until the expiration of thirty (30) days from the date the copies of the final application were forwarded to said agencies.

J. Final approval. The Henry Clay Township Board of Supervisors shall render their decision and communicate it to the developer no later than forty-five (45) days after the application is filed.

(1) When a preliminary application for a proposed development plan has been granted tentative approval, the applicant shall be entitled to final approval in accordance with the terms of the grant of tentative approval.

(2) The Henry Clay Township Board of Supervisors may deny approval of any development plan which varies from the preliminary plan granted tentative approval. The Supervisors must forward the written notice of such denial to the developer within thirty (30) days, setting forth the reason that one (1) or more variations are not in the public interest.

K. Recording. The developer shall record the approved development plan in the office of the Fayette County Recorder of Deeds within ninety (90) days of final approval.

L. Revocation. The approval of the development plan shall be revoked if the developer gives notice of his intention to abandon the plan or if the developer fails to complete the development within three (3) years of the date of final approval or, if the development is approved in stages, then three (3) years from the scheduled date of commencement of any stage; and no further development shall take place on the property included in such development plan unless a subsequent development plan is approved or such development complies with this chapter and the Subdivision Ordinance.

1003 Development Standards

A. Site requirements. The site for any planned residential development plan shall meet the following requirements:

- (1) Ownership. The entire site for the development plan shall be owned or controlled by the developer.
- (2) Minimum size. The site shall not be less than twenty (20) contiguous acres.
- (3) Frontage. The minimum frontage abutting on a public right-of-way shall not be less than one-hundred (100) feet.
- (4) Access. The site must provide for direct access from arterial or collector streets indicated on the development concept plan to assure convenient and safe access which will not cause undue congestion or hazard on local streets.
- (5) The site shall be such a character as to avoid danger to health or peril from fire, flood or other hazards.
- (6) The rules and regulations of the Henry Clay Township Board of Supervisors shall be observed.

B. Permitted uses. Residential dwellings (a mixture of housing types is preferred), recreation facilities similar to hiking, walking and bicycle trails, tennis, basketball and volleyball courts, swimming pool and related facilities and putting greens and accessory uses may be permitted in a development plan, provided that their design, arrangements, landscape development and construction meet the requirements established by the township and the facilities are for use by the tenants, owners and their guests only.

C. Permitted density. The average or overall density for all types of combined residential units shall not exceed twelve (12) residential units per gross acre for the entire planned residential area.

D. Yard and open space requirements. There shall be no restrictions regarding lot size, lot width, setbacks or percentage of lot coverage except as follows:

- (1) Not less than twenty (20%) percent of the total site area shall be set aside for undeveloped open space.
- (2) Minimum building setback. No structure shall be located closer to any boundary of the site than seventy-five (75) feet.
- (3) The total building coverage shall not exceed fifty percent (50%) of the total site area.
- (4) Space between buildings. Every structure shall be separated by not less than twenty-five (25) feet from any other structure on the site.
- (5) All paved areas, including roads, parking areas and service yards, or areas developed in intensive

recreational uses as permitted by this chapter, and any land within twenty (20) feet of townhouses or apartments shall not be considered part of the required open space.

(6) Building grouping. Each building used for multiple dwellings, including accessory buildings, shall be so oriented as to ensure adequate light and air exposure for walls containing main window exposure or main entrances. Each building shall be so arranged as to avoid undue exposure to concentrated loading or parking facilities and shall be so oriented as to promote visual and audible privacy between adjacent buildings and adjacent lots. A building containing a dwelling unit shall not be so situated that it is inaccessible by emergency vehicles. Each building used for multiple dwellings, including accessory buildings, shall be twenty-five (25) feet distant from any other building on the lot or a greater distance if deemed advisable by the township upon inspection of the site plan.

(7) Open spaces.

(a) Open spaces between structures, including those spaces being used as recreational areas, shall be protected by adequate covenants running with the land or by conveyances or dedications, as the Supervisors and Planning Commission shall specify, consistent with applicable state statutes.

(b) Defaults. In cases where the township will not be accepting dedications of streets, recreation areas or open spaces, the landowner shall provide for an organization (including complete bylaws and, if required, a charter) or trust for ownership and maintenance. In the event of default, the township may assume control and the resulting costs may be assessed against the properties that have right of enjoyment of these spaces and facilities as specified by applicable state statutes.

(8) Roads and parking areas. Access to planned residential developments shall be provided only by arterial or collector streets. The dimensions and construction of roads, alleys and parking areas provided within the development, whether or not dedication to the township is contemplated, shall conform to all applicable township ordinances and regulations. In cases where the developer can demonstrate that the density and flow of vehicular and pedestrian traffic do not require such conformations, the Board of Supervisors may establish lesser requirements, which shall not be contrary to the interest of the community. Every single-family dwelling shall have access to a street or court dedicated to public use.

E. Height limitations. No structure shall exceed a height of three (3) stories, which shall not exceed thirty-five (35) feet measured from the lowest point of intersection of the structure with the ground to the highest peak of the roof.

F. Maximum size of structures. No structure shall be comprised of more than eighteen (18) dwelling units. No structure shall have an overall horizontal dimension greater than two hundred (200) feet.

G. Open space reservation. Open space generated by the application of the provisions of this chapter shall be so dedicated or otherwise preserved and maintained as to always remain open. The land to be used for open space may be acceptable if the following conditions are met:

(1) The land shall be dedicated to the township for township park use; or

(2)The land and facilities shall be deeded to an organization representing the property owners of the development. The organization shall covenant to operate and maintain the land; or

(3)The land shall be deeded to the abutting lot owners as tenancy in common.

H.Open space maintenance. In the event that the organization established to own and maintain open space, or any successor organization, shall at any time after establishment of the development plan fail to maintain the open space in reasonable order and condition in accordance with the development plan, the municipality may take remedial actions to cause the open space to be properly maintained, as provided by the Pennsylvania Municipalities Planning Code.

I.Staging development. In no instance shall the density (dwelling units per acre) of any stage of the development exceed the allowable density (dwelling units per acre) as permitted under this chapter within the zoning district or districts as established by this Article.

1004 Enforcement and amendment

To ensure the integrity of the development plan and guarantee that modifications in the plan do not 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.Provisions in favor of municipality. The provisions of the development plan relating to the use, bulk and location of buildings and structures, the quantity and location of common open space, except as otherwise provided in this chapter, and the intensity of use or the density of residential units shall run in favor of the municipality. As provided by law, these provisions shall be enforceable at law or in equity by the municipality without limitation on any powers of regulation otherwise granted the municipality by law.

B.Provisions in favor of residents. All provisions of the development plan shall run in favor of the residents of the planned residential development but only to the extent expressly provided in the development plan. Furthermore, these provisions, whether recorded by plat, covenant, easement or otherwise, may be enforced at law or in equity by said residents acting individually, jointly or through an organization designated in the development plan to act on their behalf. No provisions of the development plan shall, however, be implied to exist in favor of residents of the planned residential development except as to those portions of the development plan which have been finally approved and have been recorded.

C.Modifications. All those provisions of the development plan authorized to be enforced by the municipality under this section may be modified, removed or released by the municipality, 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 municipality 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 municipality shall be permitted except upon the findings by the Board of Supervisors or its designated agency,

following a public hearing thereon pursuant to public notice called and held in accordance with the provisions of the Pennsylvania Municipalities Planning Code.

These findings must indicate that the changes are consistent with the efficient development and preservation of the entire planned residential development and do not adversely affect the enjoyment of the land abutting upon or across the street from the planned residential development or the public interest and are not granted solely to confer a special benefit upon any person.

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

ARTICLE XI
SUPPLEMENTAL REGULATIONS

SECTION 1101 General Intent

The regulations that are included in this Article are intended for all uses, buildings, structures, or lots within all Zoning Districts unless otherwise provided for in this Ordinance.

SECTION 1102 General Requirements and Exceptions

- A. **Mixed Uses:** The use of residential buildings, land, or structures shall be designed and designated for uses which are approved for the appropriate zoning district. Except where specifically noted in this ordinance, any multiple use of buildings, land, or structures is strictly prohibited. Except where permitted, not more than one (1) principal residential building shall be located on a conforming lot, nor shall a principal detached residential building be located on the same conforming lot with any other principal building.

- B. **Cellar or Basement Dwellings:** Any dwelling contained solely within a cellar or basement below surface grade level shall be prohibited.

- C. **Recognizing the heritage of hunting and shooting sports in Henry Clay Township; Hunting and target shooting are deemed permitted on any parcel in excess of ten (10) acres in all zoning districts. Target ranges shall have either a natural or man-made back stop suitable to safely stop bullets. Nothing in this provision shall authorize the reckless or negligent discharge of firearms. Such actions are to be addressed by the Crimes Code of Pennsylvania. Discharge of a firearm within 150 yards of a residential structure is hereby legislatively is not a nuisance noise.**

SECTION 1103 Accessory Uses

- A. **Permitted Accessory Uses:**

Any permitted accessory uses must meet the requirements found in the definition of "accessory use" contained within this ordinance. Examples of such uses are:

- 1. Carports, garages, and sheds or buildings and structures used for storage.

- 2. Private greenhouses, gazebos, or garden sheds.

- 3. Civil defense shelter for not more than ten (10) persons.

- 4. Fences, as regulated in this ordinance.

- 5. Signs, as regulated in this ordinance.

6. Radio, television, or satellite dish antennas, as regulated in this ordinance.
7. Storage of merchandise which is normally stocked on the same lot as the retail, service, manufacturing, or office use, unless prohibited by this ordinance.
8. Swimming Pools shall have a fence to provide for safety, see Section 807 of this Article for regulations.

SECTION 1104 Prohibited Accessory Uses:

- A. All of the following shall not be parked or stored in a public right-of-way in the R-1 and R-2 districts:
 1. Any truck or van exceeding 11,000 pounds gross weight or designated as Class 5 or above by the Pennsylvania Motor Vehicle Code.
 2. Construction vehicles.
- B. No vehicle which is disabled from which the wheels or engine have been removed, which is not in operating condition or which does not have a current motor vehicle license and inspection sticker attached shall be placed, parked, stored, or repaired on any street, right-of-way, or in any yard in any district, nor shall any owner or occupant of property in any district permit said property to be used for the parking, storage, or repair of said motor vehicles. The foregoing shall not prohibit the rental of space in a private or public garage, or repairs in a permitted garage in the C/ LI Districts.
- C. Any outdoor storage of supplies or equipment shall not be permitted as an accessory unless specifically authorized by this ordinance.

SECTION 1105 Accessory Use Limitations:

- A. All accessory structures shall comply with the use limitations of this ordinance for each zoning district.
- B. No accessory structure shall be used for a dwelling unless authorization is expressed by this ordinance.
- C. No accessory structure shall precede the construction of the main structure to which it is accessory.

SECTION 1106 Height and Lot Requirements of Accessory Uses:

The following requirements shall apply unless otherwise provided within this ordinance.

- A. No accessory use shall exceed fifteen (15) feet in height unless otherwise specified by this ordinance.
- B. Lot Requirements of Accessory Uses:
 - 1. Front Yard: No accessory use or structure shall be permitted in the required front yard setback, except for authorized signs or fences. In commercial and industrial districts, off-street parking may be permitted, in a required front yard provided that any front yard parking have a minimum of a three (3) foot landscape setback from any street or sidewalk line.
 - 2. Side Yard: Accessory uses may be permitted in any required side yard provided it is no closer than three (3) feet from any existing building, structure, or lot line on the same lot and meets respective side yard setbacks.
 - 3. Rear Yard: No accessory use shall occupy more than thirty (30) percent of any required rear yard except under any other provision of this ordinance. In commercial/ industrial districts parking may exceed thirty (30) percent of any required rear yard, provided any rear yard parking shall not be located within five (5) feet of any rear property line. Rear setbacks for detached garages shall be five (5) feet or the setback of the closest adjacent detached garage, whichever is less.
 - 4. Corner Lot: An accessory use located in a side yard or rear yard shall maintain the same setback from the street right-of-way as the principal structure on the lot.
- C. No part of any accessory structure shall be located closer than ten (10) feet to any principal structure, unless it is attached to or forms a part of such principal structure. No accessory structure shall be located closer than five (5) feet to another structure, other than a fence on an abutting property.

SECTION 1107 Fencing:

- A. Height and Location: Fences, walls, and other screens may be erected in any yard subject to the following height requirements, with height measured from the existing ground elevation:
 - 1. Front yard and side yard between the front yard and rear building line - maximum of four (4) feet.
 - 2. Side or rear yard - six (6) feet maximum provided the ratio of solid to open portion does not exceed 1:2.
 - 3. Fences, screens, or living fences up to ten (10) feet in height may be approved by the Zoning Hearing Board for any yard of a public school, recreational facility, or public building provided that the ratio of solid to open portion does not exceed 1:2.

4. A fence, wall, or living fence cannot be erected in a public or dedicated right-of-way.
5. Fences along an abutting property shall be set back at least six (6) inches from the property line.
6. Fences or living fences either publicly or privately owned shall not block the clear sight distance at street intersections or driveways.
7. Fences may include barbs or other harmful projections if approved by the Zoning Hearing Board for security reasons.
8. The finished side of fences or walls shall always face the abutting street or property.
9. A swimming pool shall be enclosed by a fence or other enclosure six (6) feet in height as measured from the existing ground elevation which can be locked to prevent accidental or unauthorized entry. The height requirement for fences enclosing above ground pools maybe met via railings attached to the pool wall, in which the lowest ground elevation at any point for pool and railing combined is six (6) feet.

SECTION 1108 Satellite Dishes, Antennas:

A. Satellite Dishes:

1. A satellite dish and other antenna are a permissible accessory structure in any zoning district subject to the requirements of this section.
2. Such antennas may be installed in rear and side yard, provided that no structure shall be located within ten (10) feet of any property lines, and on roof tops.
3. Installation of such antennas shall be mounted on the ground and the maximum height of a dish shall not exceed fourteen (14) feet and shall have a maximum diameter of ten (10) feet.

B. Exceptions to regulations: Any applicant may apply to the Zoning Hearing Board for a special exception regarding the height, size, or placement of a satellite dish when it is demonstrated that the present requirements are detrimental to reception.

SECTION 1109 Signs:

A. Application:

1. Any sign hereafter erected, relocated, remodeled, enlarged, or altered, shall conform to the provisions set forth in this ordinance.
 - a. A sketch of the proposed sign with height and size requirements shall be submitted for approval at the time of obtaining the required permits.
 - b. All existing abandoned signs shall be brought into conformance with this Ordinance within ten (10) years of its enactment.
 - c. If an existing abandoned sign is not brought into conformance with this Ordinance, it shall be removed.
2. The following signs are exempt from the requirements of this section, provided that the clear sight distance at intersections shall be retained:
 - a. Address numerals.
 - b. Traffic, directional, legal notices, or similar type of instructional or regulatory signs erected by a unit or agency of government.
 - c. Flags or other type of emblems of a governmental, educational, religious, philanthropic or corporate organization, which are displayed on private property, provided the flag pole or other support structure shall not exceed the required height limitations of the zoning district.
 - d. All signs, whether permanent or temporary, shall require a permit issued in accordance with Article VII, Section 701.b of this Ordinance prior to their placement or installation.

B. General Regulations:

1. Location, placement, and types:
 - a. All signs shall be located on the same lot containing the use or structure to which the sign relates, except off-lot directional signs.
 - b. No sign shall be attached to a utility pole or tree whether on private or public property.
 - c. Billboards are permitted in/ on the same parcel as business advertising thereon.

All other billboards shall be subject to regulation by the USA or the Commonwealth of Pennsylvania.

- d. No sign shall be erected at a street or driveway intersection. A minimum setback distance of fifteen (15) feet shall be retained for clear sight distance.
- e. No sign shall be constructed in or projecting over any public right-of-way unless specifically authorized in this or any other township ordinance.
- f. No sign attached to a pole shall project above the top of the highest full floor of a structure.
- g. Double-face signs are permitted. In computing the square foot area of a double-face sign, only one side shall be considered provided both faces are identical.
- h. Every authorized permanent sign shall be constructed of durable materials and maintained in good condition and repair. If any sign deteriorates to an unsightly or hazardous condition, the Zoning Officer shall order it repaired, replaced or removed within thirty (30) days after notice to the owner. Failure to comply with the order shall be a violation of this Ordinance.
- i. If a use ceases operation for a period of six (6) months, all signs including any supporting structures shall be removed. If such signs are not removed, the Zoning Officer shall notify the owner which will then have thirty (30) days to comply or be in violation of this Ordinance.
- j. Letters or symbols which are individually attached to a window, building, or wall, the sign's area shall be considered to be that of the smallest rectangle that encompasses all of the symbols or letters. These signs will conform to height and size regulations according to type of sign and location, etc.
- k. A conforming sign may be removed for repair without obtaining a new permit to re-hang it. If the sign was originally non-conforming and is being changed to a conforming sign, then a permit shall be obtained to re-hang it.
- l. It shall be unlawful to display upon any sign, any obscene, indecent, or immoral matter as per the Zoning Hearing Board's discretion.
- m. Any sign which is attached to or projects out from a building, structure, or support and projects into a pedestrian way shall be a minimum height of seven and one-half feet (7 ½) from the bottom of the sign to ground level.
- n. Flashing or animated signs conforming to a 100 foot setback from any street right-of-way.

2. Prohibited Signs:

The following signs are prohibited in all zoning districts.

- a. Signs illuminated by bare, unshielded bulbs.
- b. Sandwich boards, except when used as a temporary sign:
- c. Billboards are permitted on the same parcel as the business advertising thereon. All other billboards shall be subject to regulation by the USA or Commonwealth of Pennsylvania.
- d. Roof signs, attached to or above the top full floor of a structure.
- e. Banner signs of any other type across a public street or on any private property, except for such signs which are approved by the Township Supervisors to be of general benefit to the Township or for public convenience, necessity, or welfare.
- f. Flashing and animated signs within one-hundred (100) feet of a public right-of-way, or property line.

C. Illumination:

1. Illuminated signs shall be designed and placed so as not to interfere with, distract, or blind operators of motor vehicles or to create glare for adjacent properties.
2. Signs may be illuminated either directly or indirectly in accordance with this ordinance.
 - a. Directly illuminated - a sign designed to give forth artificial light directly (or through a transparent material) from a source of light internal to the sign.
 - b. Indirectly illuminated - a sign with a light or lights external to the sign, such that the light shines on or in a direction that illuminates the sign without direct rays from the light being visible elsewhere on the property.

D. Permitted Signs for All Zoning Districts:

The following signs are permitted in any zoning district subject to the requirements in this ordinance, and do not require permits.

1. Nameplate - an identification sign not exceeding one (1) square foot and attached to a wall of the structure.

2. Memorial or historical sign - placed by a public or nonprofit organization, not exceeding fifteen (15) square feet, non-illuminated or indirectly illuminated.
3. On-lot directional signs - located on private property, not exceeding six (6) square feet in height.
4. No trespassing, Warning, private property signs - displayed on private property, not exceeding one (1) square foot per sign. More than one sign may be permitted on a lot.
5. Real estate, rental, construction, garage/yard sale, political signs.

The above-listed signs shall be non-illuminated in any residential district but may be indirectly illuminated in any other zoning district.

E. Residential R-1 and R-2 Districts:

1. Permitted signs and size limitations:
 - a. Identification sign for a multi-household structure or development, subdivision, planned development, or authorized conditional/special exception use, not to exceed fifteen (15) square feet.
 - b. Identification sign for a daycare center, personal care home, or group residence, not to exceed twelve (12) square feet.
 - c. One (1) identification sign for a residential dwelling. This sign may include the name and/or address of the residence.
 - d. Such signs shall not encroach into easements, right-of-ways or over existing property lines.
2. Regulations:
 - a. All identification signs shall be flush mounted signs, except a place of worship, recreational facility, public building/use, school, nursing home, subdivision or planned development may have a free standing sign as an alternative.
 - b. Where authorized, a free standing sign shall be set back at least ten (10) feet from any property line or public right-of-way and shall not exceed eight (8) feet in height.
 - c. Signs shall be non-illuminated or indirectly illuminated.

- d. Any sign for a commercial or industrial use shall conform to the applicable standards for a sign in a C/LI district.

F. Commercial/Light Industrial Flex District:

1. Permitted signs and size limitations:

- a. Identification sign for a single business establishment which may be any two (2) of the following:
 - (1) A flush-mounted sign, not to exceed one (1) square foot for every two (2) feet of building frontage in the C District. An awning or canopy sign not to exceed a total of forty eight (48) square feet, and not projecting beyond the awning, canopy, or marquee surface.
 - (3) A projecting sign mounted perpendicular to the structure on which it is mounted but not exceeding more than forty eight (48) square feet.
 - (4) A window graphic sign, not to exceed more than forty (40%) percent of the gross window area.
 - (5) A free standing sign, not to exceed more than forty-eight (48) square feet in the C District.
- b. Identification sign for a place of worship, public use/building, recreational facility, multi-household structure, group residence, personal care, or boarding home, not to thirty six (36) square feet.

2. Regulations:

- a. A free standing sign shall be allowed in the commercial/light industrial zone. All signs must be mounted on poles high enough to allow clear visibility of the street to vehicular traffic.
- b. When authorized, a free standing sign shall be set back at least ten (10) feet from a street right-of-way and at ten (10) feet from any side lot line and shall not exceed twenty (20) feet in height.

G. Temporary Signs:

Temporary signs such as those advertising real estate, renting purposes, professional services, construction, grand openings, sales, exhibits, political campaigns, cultural and religious activities, and garage/yard sales, or similar events are permitted subject to the following regulations:

1. Permits for a temporary sign shall specify the length of time for the sign, its location, type, and the parties responsible for its removal.
2. Real estate, construction, political campaign, private garage/yard sale signs shall not require a permit but shall conform to the regulations of this Article.
3. Length of time a temporary sign shall be displayed shall be no longer than thirty (30) days unless otherwise noted in this Article. Signs shall be removed immediately upon expiration of the permit and a permit for a temporary sign shall only be granted for the same purpose on the same lot not more than four (4) times in one (1) calendar year.
4. Off-lot directional signs which give directions for a temporary event or similar activity sponsored by a nonprofit organization are permitted. Such signs shall not be displayed more than thirty (30) days prior to the event and shall be removed within one (1) week after the termination of the event.

Such signs shall not be more than twenty (20) square feet in area and may be located on private property. Along with the permit, evidence that the permission of the owner of the property on which such signs are to be displayed has been given.

5. Real estate signs, advertising the premises on which they are located for sale or lease shall not exceed ten (10) square feet in residential districts or thirty (30) square feet in nonresidential districts. Only one sign shall appear on the property and shall be removed within fifteen (15) days of the sale or leasing of the property or when the last unit of a multi-unit development is sold or leased.
6. Construction signs which advertise the services of professional building trades during construction or alteration of a premises are permitted but only one such sign shall be displayed on a parcel or lot during such work. The sign shall not exceed ten (10) square feet and shall be removed fifteen (15) days after the completion of work.
7. Political campaign signs shall not exceed four (4) square feet in size and shall be posted on private property only with the permission of the owner and shall not be displayed more than thirty (30) days prior to an election and shall be removed within one (1) week after the election.
8. Garage and yard sale signs shall be placed on the property where the sale will take place and such sign shall not exceed four (4) square feet. It shall not be displayed more than one (1) week prior to the sale and shall be removed within forty- eight hours (two (2) days) after the sale.

SECTION 1110 Off-Street Parking:

1110- A:Applicability - General

For every use, activity, or structure permitted by this Chapter and for all buildings or structures erected in accordance therewith, there shall be provided sufficient space for access and off-street standing, parking, circulation, unloading and loading of motor vehicles that may be expected to transport its occupants, whether as patrons, residents, customers, employees, goods, guests, materials, services, supplies or otherwise, to an establishment, activity, or place of residence at any time under normal conditions for any purpose. When a use is expanded, accessory off-street parking and loading shall be provided in accordance with the regulations herein for the area or capacity of such expansion including bringing the area into compliance with the township standards in the Henry Clay Township Code.

Also, no commercial or recreational vehicles, or like equipment, or mobile or stationary trailers, boats, boat trailers, recreational vehicles, or motorized unit (automobiles) of any kind shall be stored or parked on any lot or street in any residential zone in Henry Clay Township expect when transporting persons or property to or from a residence in Henry Clay Township or stored in an accessory garage. No vehicle shall be parked in anyone location for more than a two (2) week continuous period on any street other than properly licensed automobiles in residential zones, and no parking whatsoever shall be permitted on lawns or landscaped areas.

No repair work or service work shall be performed in open view on any vehicle, boat or recreational vehicle for any period extending beyond three (3) days. This Section 810-A shall be administered and coordinated with the Henry Clay Township Zoning Ordinance.

1110-A.1 Parking of Commercial and Recreational Vehicles, Trailers and Trucks.

Parking of Commercial and Recreational Vehicles, Trailers and Trucks Commercial and Recreational Vehicles, Trailers and Trucks shall not be parked in any garage or upon any space in any zoning District, except as may be permitted by Township Ordinance.

No trailer shall be stored in open view in any residential zone except for those in the engaged loading of goods or services or those being for agricultural purposes at any time. Those trailers that are engaged in loading or agricultural purposes must be attached to cabs or tractors at all times.

All Commercial and Recreational Vehicles, Trailers and Trucks shall be required to maintain current insurance, registration and state inspection stickers regardless of where they are located within the township.

Any vehicle engaged in the loading of goods and services, excluding personal care vehicles, shall not be closer than twenty (20) feet from the existing right of way line of any roadway and twenty (20) feet of any side or rear yard setback line.

1110- B:Procedure

Every building permit application for a new, enlarged, or remodeled building, structure or use other than single family detached residential dwelling unites shall include therewith, as part of its and development plan drawn to scale and fully dimensioned, showing any off-street parking or loading facilities and related site improvements and landscaping.

1110-C: Decreased Parking Demand

When a building or structure undergoes a decrease in the number of dwelling units, gross floor area, seating capacity, number of employees, or other units of measurement specified hereinafter as a means for determining required off-street parking or loading facilities may be so decreased only when the parking or loading facilities remaining would at lease equal or exceed the off-street parking or loading requirements resulting from application of the provisions of these standards to the entire building, activity, or structure as modified.

1110-D: Increased Parking Demand

When any building or structure undergoes a change or expansion of use of unit measurement specified hereinafter as a means for determining required off-street parking or loading facilities will be required off-street parking or loading facilities will be required to comply with the standards set forth in this ordinance.

1110- E: Ingress/Egress

Ingress/egress to any commercial/light industrial use shall be via a driveway of not less than twelve (12) feet wide for one way ingress/egress or twenty (20) feet for two-way ingress/egress. It shall be a violation of this ordinance to permit parking along the frontage of a commercial /light industrial use without a fence, island, or natural barrier to prevent vehicular ingress/egress by any means other than a driveway.

All entrances and exits and loading areas from a public right-of-way shall be subject to specific approval by the Planning Commission and/or Governing Body, Fayette County and/or PENN DOT by land development plan approval in order to ensure the smooth and safe circulation of vehicles to and from the public street system. In no event shall park in a loading space be provided in a manner requiring the backing out of vehicles into public rights-of-way.

1110- F: Location of Parking or Loading Space

All required off-street parking or loading spaces shall be provided on the same lot or same zoning districts of a parcel of land occupied by the use or building to which it is appurtenant: provided, however, an alternative off site location for any portion of the required parking for a non residential use which will adequately serve the public interest may be provided, subject to all the following conditions:

1. Required accessory off-street parking facilities may be provided elsewhere than on the lot on which the principal use served is located, provided that the property occupied as parking is in the same possession, either by deed, by easement, or by long term lease which has a term equal to or exceeding the projected life of the facility occupied by the principal use, and further provided that the owner shall be bound by covenants filed on record in the Fayette County Recorders Office, requiring the owner and his or hers and successors assigns, to maintain the required number off-street parking spaces during the existence of such principal use;
2. Pedestrian access shall be available within a walking distance of not more than one hundred fifty (150) feet measured from the nearest point of public access to the building to the nearest part of the accessory parking area, unless special provisions for other transportation such as shuttle services are made available and permitted by the township; and
3. Such separated parking space shall be usable without causing unreasonable traffic congestion, detriment to any residential neighborhood, or hazard to pedestrians or vehicular traffic, and
4. All handicapped parking stalls will be in compliance with the ADA requirements and each handicapped stall will be located as close to the building entrance as permissible.

1110- G: Joint Parking Facilities

1. Off-street parking facilities for different buildings, structures, or uses, or for mixed uses, may be provided and used collectively or jointly in any zoning district in which separate off-street parking facilities for each constituent use would be permitted, subject to the following provisions:
 - A. A written agreement in a recorded form approved by the Township Solicitor assisting the perpetual joint usage of said common parking for the combination of uses or buildings is properly drawn and executed by the parties concerned and is filed with and made part of application for a building permit; and
 - B. Up to 50 percent (50%) of the parking spaces required for a theater or other place of evening entertainment, for a church, for multi-family dwelling units, or for a school, may be provided and used jointly by banks, offices, retail stores, repair shops, service establishments, and similar uses not normally open, used, or operated during evening hours if specially approved by the Planning Commission and/or Governing Body provided, however, that written agreement assuring the retention for such purposes should be properly drawn and executed by the Planning Commission and/or Governing Body provided, however that a written agreement in a recorded form approved by the Township Solicitor assuring the retention for such purposes are properly drawn and is filed with and made part of the application for a building permit. And, sufficient documentation such as parking studies shall be performed by professional Transportation Consultants and submitted with the development application as evidence of this requirement.

1110-H: Number of Parking and Loading Spaces Required

The required number of off-street parking and loading spaces is set forth in Article 810-Q and 810-S, Schedule of Minimum Parking Requirements, Schedule of Minimum Loading Requirements.

1110-I: Modification in the Required Number of Parking and Loading Spaces

1. The number of parking and loading spaces to be constructed may be less than the number of spaces required herein in the event that the following conditions are met to the satisfaction of the Planning Commission and the Planning Commission is satisfied that such reduction is not detrimental to the general health, safety and welfare of the township:

- A. Evidence (a traffic study) is submitted firmly documenting that the special nature of the use, activity, or building proposed requires less parking area or spaces than required by Article 810-Q for same;
- B. If the modification is based on assumptions which the planning commission reasonably believes could change due to unforeseen conditions, the land development plan approved by the Planning Commission shows therein reserved areas for the location and layout of that portion of the parking requirement deemed unnecessary and will be constructed accordingly in the event that the planning commission determined at any time after notice to the landowner and hearing therein that all or any portions of this parking are necessary in the interests of the public health, safety, and welfare;
- C. In no event shall that portion of the required parking or loading which is so designated but not constructed as provided herein be counted as open space or other non-paved area required by other provisions of this Chapter; and
- D. All parking and loading areas must comply with the Standards and Provisions set forth in the Americans with Disabilities Act.

1110- J: Design and Maintenance Standards

1. Development and maintenance of parking and loading areas. Every parcel of land hereafter used as a public or private parking area for three (3) or more vehicles or loading area, including a commercial parking lot, shall be developed and maintained in accordance with the following requirements:

- A. Screening and landscaping: Off-street parking areas for three (3) or more vehicles and off-street loading areas shall be screened on the side or sides which adjoin residential properties at the same or substantially the same evaluation;
- B. Minimum distances and setbacks: No off-street loading area or parking area or part thereof for three (3) or more vehicles shall be closer than twenty (20) feet to any dwelling, school, hospital or other institution for human care located on an adjoining lot, or ten (10) feet from any lot line;
- C. Surfacing: Any off-street parking areas shall be paved in accordance with the land development standards of the Henry Clay Township Land Development and Subdivision Ordinance and the Americans with Disabilities Act.

All areas shall be marked so as to provide for the orderly and safe loading, parking and storage of self-propelled vehicles;

D.Lighting:

- i. Lighting used to illuminate any off-street parking or loading areas shall be arranged so as to reflect the light away from adjoining premises or the adjoining street; and
- ii. Off-street parking facilities for multi-family structures containing four (4) or more families shall be so adequately lighted.

E.Drainage: Any off-street parking area and off-street loading areas shall be graded and drained so as to dispose of all surface water without detriment to surrounding uses.

1110-K: Location of Parking

All parking and loading areas shall be properly screened and landscaped as set forth. It is the purpose and intent of this Subsection to require adequate protection for contiguous property against undesirable effects from the creation and operation of parking or loading areas and to protect and preserve the appearance and character of the surrounding neighborhoods and of the Township through the screening effects and aesthetic qualities of such landscaping and as such additional requirements may be imposed by the township in circumstances that warrant such requirements.

1. Off-street parking spaces for special zones and all other uses shall not be located between the front building line and street line. On corner lots, this restriction shall also apply to the space between the side street line and the side building line;
2. Where there is no substantial grade differential between the street and parking area and parking is permitted between the front building line and the street line, whether by ordinance, land development plan modification, or variance, a safety island or raised median separation the public street from the parking area shall be provided in accordance with the following minimum requirements:
 - A. The width of the safety island shall be that width between the proposed street curbline to a point five (5) feet inside the property line;
 - B. Safety islands shall be raised a minimum of six (6) inches above the adjacent parking area;
 - C. Safety islands shall be top soiled and seeded or otherwise landscaped to provide a clear and unmistakable distinction between the parking area and the safety island;

D. Notwithstanding the use of maintenance free materials there shall be provided at least one (1) deciduous shade tree two (2) inches in diameter at breast height every forty (40) feet or part thereof, on all safety islands. A greater distance will be allowed for plantings if necessary for traffic safety;

E. No commercial signs shall be permitted in the safety islands; provided however directional signs no more than two (2) square feet in size and no more than twenty-four (24) inches in height at the top edge of each sign, shall be permitted and the location shown on the land development plan; and

F. When parking areas abut the safety island, a continuous wheel stop shall be provided three (3) feet from the normal edges of the island, and the minimum depth of stalls shall be increased by one (1) foot. If a cast-in-place curb is used for the wheel stop, it shall be placed as above stated and the stall depth measured from a point two (2) feet outside the face of the curb.

Parking will be allowed in front of structure subject to driveway requirements reference 1110 E.

1110-L: Small Parking Areas

Parking lots having fifty (50) or fewer spaces shall be designed to provide the following minimum design requirements:

1. A safety island or raised median as herein described;
2. A five (5) foot unbroken landscaped dividing strips along all side property lines from the street line to the rear lot line, unless otherwise specified herein;
3. Not more than one (1) two-way access drive or two (2) one-way access drives on anyone (1) street unless approval otherwise is obtained from the Planning Commission, agency or official having jurisdiction over the plan;
4. All safety islands and landscaped dividing strips planted with at least one (1) deciduous tree with a trunk of two (2) inch diameter at six (6) feet in height at the time of field planting every forty (40) feet, or part thereof, and the area between trees planted with a minimum of three (3) evergreen-type shrubs;
5. All plantings in landscape islands; except trees, must not exceed twenty-four (24) inches in height when mature in the sight triangle designated areas, in other areas the plantings may not exceed eight feet (8') in height; and
6. All entrance and exit drives shall be curbed on both sides from the street curb to a point at the beginning of the access drive or parking stalls.

1110-M: Large Parking Areas

Parking lots which have a capacity for parking more than fifty (50) vehicles shall incorporate the following minimum design standards:

1. All entrance and exit drives shall be curbed on both sides a minimum distance of one hundred (100) feet back from the street curb or to a major collector aisle;
2. No parking stalls which shall require the use of the entrance and exit drives as access aisles shall be permitted;
3. All access drives located along one-way streets or divided highways shall be separate one-way drives. Said drives shall be located so that vehicles enter the parking area at the beginning of the property and exit at the far end of the property unless other considerations, such as median opening, dictate otherwise;
4. All directional (one-way) drives shall be marked by appropriate signs facing all peripheral service roads serving the property as well as the parking area;
5. On lots having a frontage of one hundred (100) feet or fewer driveways, exits and entrances shall be located as far as practical from an intersection. On lots having a frontage in excess of one hundred (100) feet, driveways, exits and entrances shall be located as near the middle line as practical. However, on such lots the entrance or exit driveways need not be located more than five hundred (500) feet from the intersection. Measurements shall be taken for the purpose of locating the driveways from the curblines of the intersection;
6. No driveway shall be located less than ten (10) feet from the side property line or within thirty (30) feet of an existing drive, whichever is greater;
7. No property having a frontage of less than one hundred (100) feet shall have more than one (1) two-way driveway on one (1) street. No property having less than one thousand (1,000) foot frontage shall have more than two (2) driveways on one (1) street. Any frontage greater than one thousand (1,000) feet may have more than two (2) drives on (1) street; however, the number, location, size and design shall be subject to approval of the Planning Commission, agency or official having jurisdiction over the plan;
8. All safety islands and landscaped dividing strips planted with at least one (1) deciduous tree with and two low land evergreen shrubs with a trunk of two (2) inch diameter at six (6) feet in height at the time of field planting every forty (40) feet, or part thereof, and the area between trees planted with a minimum of three (3) evergreen-type shrubs;
9. All plantings in landscape islands; except trees, must not exceed twenty-four (24) inches in height when mature; and
10. There shall be provided internal landscaped areas. The planting required within the parking area shall

be considered exclusive from any other plantings that may be required for screening or foundation planting. The following criteria in addition to the provisions required by Ordinances 112 and 132 of the Henry Clay Township Code shall apply for internal landscaping within parking areas:

- A. They shall have a minimum width of seven (7) feet and a minimum area of one hundred (100) square feet;
- B. They shall be top soiled, seeded or mulched;
- C. They shall be planted with deciduous trees of two (2) inch diameter at six (6) feet height having a maximum distance between trunks at ground level of forty (40) feet;
- D. The area between trees shall be planted with an appropriate mix of evergreen and deciduous shrubs and ground cover and may contain light standards; and
- E. The landscaped areas shall have harmonious design within the parking area and the landscaped areas in the aggregate shall equal or exceed five (5) square feet of landscaped area for each one (1) parking space.

1110-N: Parking Area Landscaping for Large Scale Areas

Every parking lot with one hundred (100) or more spaces shall be divided as nearly as possible into smaller lots of fifty (50) spaces separated by landscaped dividing strips, excepting the area for access aisles. The planting required within the parking area shall be considered exclusive from any other plantings that may be required for screening or foundation planting. The following criteria shall apply for internal landscaped dividing strips:

- 1. They shall have a minimum width of seven (7) feet;
- 2. They shall be top soiled, seeded or mulched;
- 3. They shall be planted with deciduous trees of two (2) inch diameter at six (6) feet in height at the time of field planting having a maximum distance between trunks at ground level of forty (40) feet; and
- 4. The area between trees shall be planted with an appropriate mix of evergreen and deciduous shrubs and ground cover.
- 5. All safety islands and landscaped dividing strips planted with at least one (1) deciduous tree with a trunk of two (2) inch diameter at six (6) feet in height at the time of field planting every forty (40) feet, or part thereof, and the area between trees planted with a minimum of three (3) evergreen-type shrubs;
- 6. All plantings in landscape islands; except trees, must not exceed twenty-four (24) inches in height when mature; and

1110-O: Retaining Walls and Embankments

1. Retaining Walls and Embankments must be designed to comply with the township Slope Control Ordinance;
2. When retaining walls or Embankments or similar types of earthen materials necessitated adjacent to or within parking area, they shall be kept in good repair or otherwise maintained so as to keep the parking area free of debris and dirt.

1110-P: Screening of Refuse Area

These areas adjacent to or with the parking area designated as refuse, storage and pickup areas shall be properly screened to prevent the unsightly display and the scattering of debris. The following minimum requirements shall apply:

1. The area shall be surrounded on at least three (3) sides by a solid uniform fence or a wall not less than five (5) feet nor more than eight (8) feet in height and maintained in good condition. The wall of an adjacent building may serve as one (1) side. Said fence shall be exempt from the provisions of any ordinance of this municipality regulating the height of fences and requiring permits therefore; and
2. The opening in said screen wall or fence shall be located as to prevent the visual display of refuse from any adjacent parking area or street.

1110-Q: Screening of Equipment and Machinery

1. When the effective operation of a building or structure, or equipment within a building or structure, necessitates placing machinery, motors, generators, or similar devices for cooling, heating or generating purposes outside or on top of any structure, it shall be screened from public view as the same may be seen from an elevation equal to that of the principle entrance to the building such equipment serves. Said screening notwithstanding any other provisions of this Chapter may consist of any of the following materials:
 - A. Densely planted evergreen shrubs which shall grow to not less than five (5) feet after one (1) growing season;
 - B. A solid and uniform fence at least five (5) feet in height on four (4) sides of said equipment; or
 - C. A masonry wall at least five (5) feet in height on four (4) sides of said equipment; or
 - D. Any similar type of solid uniform screening which will prevent exposure of such equipment to public view.

2. The above requirements shall not be construed to prevent an opening in any required screening for maintenance purposes. However, any such opening shall be made as inconspicuous as possible so as not to present a display of said equipment to public view

1110-R: Minimum Off-Street Parking Spaces Required

No building or structure shall be erected nor any major reconstruction or change in use made to an existing building or structure unless there already is existing upon the lot or unless provisions are made for off-street parking facilities providing adequate parking spaces on the basis of the following minimum requirements:

1. Automotive repair, garage or body shop: one (1) parking space for each four hundred (400) square feet of gross floor area;
2. Automobile sales: three (3) parking spaces for each one thousand (1,000) square feet of gross floor area for exclusive use of customers. In addition, there shall be provided at least one hundred seventy (170) square feet of lot area for each vehicle stored on the premises to be sold, rented or otherwise used in the operation of the business. The lot area to be used to compute the number of vehicles that can be stored on the premises shall be the total lot area not used for building or customer parking as herein provided;
3. Automotive service station: four (4) parking spaces for each service bay, exclusive of vehicle service area. In no instance shall there be fewer than four (4) off-street parking spaces;
4. Banks, savings and loan associations and similar financial institutions: one (1) parking space for each three hundred (300) square feet of gross floor area;
5. Bar, cocktail lounge or nightclub, including restaurants with bars: one (1) parking space for each seventy-five (75) square feet of gross floor area;
6. Barber and beauty shop: two (2) parking spaces for each chair;
7. Bowling alley: four (4) parking spaces for each alley. Other commercial uses within the same building will be computed separately in accordance with this Ordinance;
8. Business offices: one (1) parking space for two hundred (200) square feet of gross floor area;
9. Car washes: five (5) parking spaces for employees plus off-street storage space equal to at least five (5) times the number of cars that can be in the wash process at one time. For self wash or self service car washes, the requirement for employee parking shall be eliminated;
10. Church, temple or chapel: one (1) parking space for each four (4) seats in the main auditorium. Where no individual seats are provided, twenty (20) inches of bench shall be considered as one (1) seat;

11. School:

Elementary 2 spaces/classroom, but not less than 1/teacher and staff plus 10%

Intermediate 2 spaces/classroom, but not less than 1/teacher and staff plus 10%

Secondary/Post Secondary 10 spaces/classroom, but not less than 1/teacher and staff plus 10%

12. Community Center, library, museum or art gallery: one (1) parking space for each two hundred (200) square feet of gross floor area;
13. Community Club, private club or lodge: one (1) parking space for each one hundred (100) square feet of gross floor area, plus two (2) spaces for each boat slip where applicable;
14. Convalescent home, nursing home or rest home: one (1) parking space for each three (3) beds, plus one (1) parking space for each two (2) employees, including nurses and other staff;
15. Meeting rooms, assembly or exhibition halls: without fixed seats, one (1) parking space for each fifty (50) square feet of gross floor area; with fixed seats, one (1) parking space for every four (4) seats;
16. Dwellings: two (2) parking spaces for each single-family dwelling;
17. Dental or medical offices: two (2) parking spaces for each doctor, plus one (1) parking space for each two hundred (200) square feet of gross floor area;
18. Drive-in Restaurant: one (1) parking space for each fifty (50) square feet of enclosed floor area, plus one (1) parking space for each four (4) seats;
19. Driving range or miniature golf: one (1) parking space for each tee or hole;
20. Furniture, appliance stores or similar types of uses requiring large amounts of storage: one (1) parking space for each four hundred (400) square feet up to four thousand (4,000) plus one (1) parking space each eight hundred (800) square feet of gross floor area above four thousand (4,000);
21. Government, County or Municipal Offices: four (4) parking spaces for each one thousand (1,000) square feet of gross floor area;
22. Hardware or auto supply stores: one (1) parking space for each four hundred (400) square feet of gross floor area;
23. Hospital (general, mental or sanitarium): one (1) parking space for each three (3) beds plus one (1) space for each employee on the shift having the greatest number of employees, plus one (1) space for each visiting doctor;
24. Hotel or motel: one (1) parking space for each rental unit. Each commercial use within the building

shall be computed separately according to the requirements for such use sets forth herein. The approving Authority may allow up to fifty percent (50%) of the required parking for commercial uses in the hotel or motel to be satisfied by guest room parking;

25. Laundromats or similar coin-operation cleaning: one (1) parking space for each four (4) cleaning units or fraction of four (4) cleaning units;

26. Manufacturing or industrial establishment, research or testing laboratory, bottling plant or similar uses: one (1) parking space for each eight hundred (800) square feet of gross floor area or two (20) parking spaces for each three (3) employees, whichever is greater.

If the number of employees or the gross square footage of the principal building(s) cannot be determined at the time of application, the sufficient land area shall be reserved to provide a total number of spaces at the rate of one (1) space for each three hundred (300) square feet of maximum lot coverage;

27. Marina, boat yard or boat sales: one (1) parking space for each boat slip, plus one (1) space for each employee;

28. Mortuary funeral home: one (1) parking space for every fifty (50) square feet in slumber rooms, parlors and funeral service rooms;

29. Multi-family apartments: two (2) per unit up to one (1) bedroom and den or two (2) bedrooms; every two additional bedroom shall require an additional one (1) space;

30. Nursery school, day camp or similar uses; one (1) parking space for each employee, plus one (1) parking space for each vehicle used for transportation of students;

31. Personal service establishment: one (1) parking space for each two hundred (200) square feet of gross floor area, plus one (1) space for each vehicle used in connection with the business;

32. Professional office, such as architectural, clerical engineering, legal and similar uses: one (1) parking space for each two hundred (200) square feet of gross floor area;

33. Public and private utilities (electrical substation, gas regulator, water works, station and similar facilities): one (1) parking space for each vehicle stored on the premises, plus one (1) parking space for each employee on the shift which has the greatest number of employees;

34. Restaurant, cafe or diner: one (1) parking space for each seventy-five (75) square feet of gross floor area;

35. Recreation facilities: those not specifically mentioned herein shall be determined by the approving Authority;

36. Retail stores, except otherwise specified: one (1) parking space for each two hundred (200) feet of gross floor area;
37. Studio (art, music or dance for the purpose of giving instruction): one (1) parking space for each one hundred (100) square feet of floor area used for giving such instructions;
38. Shopping centers: one (1) parking space for each two hundred (200) square feet of gross floor area;
39. Theater: one (1) parking space for each two (2) seats;
40. Veterinary or animal hospital: one (1) parking space for each four hundred (400) square feet of gross floor area;
41. Warehouse, wholesale, machinery or large equipment sales: one (1) parking space for each five thousand (5,000) square feet of gross floor area, plus one (1) space for each vehicle used in connection with the business; and

1110-S: Miscellaneous

1. In computing the number of the above required parking spaces, the following rules shall govern:
 - A. Where fractional spaces result, the required number shall be construed to be the nearest whole number of the higher degree; and
 - B. The parking space required for a use not specifically listed in Section 132-26 R above shall be that for a listed use of a similar nature as determined by the Planning Commission.

1110-T: Off-Street Loading

1. In all Zones except A, RC, R-1, and R-2, in connection with buildings occupied by industrial, commercial and certain institutional uses, there shall be provided and maintained on the same lot with such building, off street loading spaces in accordance with the requirement of the table following;
2. Size and location: each loading space shall be not less than twelve (12) feet in width, thirty-five (35) feet in length and have a minimum vertical clearance of fourteen (14) feet and may occupy only areas previously designated by this ordinance.

3.Required number of off-street loading spaces:

USE	LOADING SPACE
School, Hospital; square feet of gross floor area	1
Under 10,000	1
10,000 - 30,000	2
Funeral Home, Office, Hotel, Retail Service, Wholesale, Warehouse, Manufacturing, Processing or Repairing	
Floor Area	
Under 10,000	0
10,000 - 25,000	1
25,001 - 40,000	2
40,001 - 60,000	3
60,001 - 100,000	4
Shopping Center; for each building exceeding 75,000 square feet	2

4.Loading areas will be designed in accordance with all articles of this section.

1110-U:Lighting

Lighting shall be provided to illuminate any off-street parking or loading spaces to be used at night, in accordance will Section 1110-J. If provided, lighting shall be maintained and arranged and installed to deflect, shade, and focus lights away from adjacent properties. The height, type, spacing, and degree of cut off of a light standard may be further regulated by the planning commission in relation to specific site conditions or types of development.

1110-V: Signs

All signs in all parking areas must comply with the Pennsylvania Department of Transportation Specifications regarding their location, height, mountings, reflective coatings, materials, dimensions, colors, notice of the amount of the fine to be paid for handicapped and designated areas.

1110-W: Maintenance

Any person operating or owning a parking lot shall keep it free, as may be practical, of dust and loose particles and shall promptly remove the snow and ice from the surface of the parking lot. Such persons shall also keep all adjacent sidewalks free from dirt, ice, sleet and snow and shall keep all sidewalks in a safe condition for use by pedestrians. All signs, markers, location of parking spaces shall be maintained in a neat and legible condition. Likewise any walls, landscaping including trees and shrubbery, as well as surfacing and curbing of the parking lot, shall be maintained in good condition throughout its use for parking purposes. Failure to maintain any parking and loading facilities including but not limited to landscaping areas shall be a violation of the ordinance and subject to enforcement pursuant to these requirements of Section 616.1 and 617.2 of the MPC.

1110-W 1. Parking Lot, Driveway and Loading Area Designed Standards:

All paved areas shall be constructed to the following specifications:

- 2" FABC - 1 surface course
- 5" Stabilized base course
- 6" Type 1-5 sub base

Paving thickness may be reduced based upon the certified results of soil testing and analysis conducted by the applicant to determine the bearing strength at the sub-grade soil together with the projected use of the street or highway with an adequate margin to cover all contingencies and extraordinary conditions. Where such pavement design must be reviewed by and approved by the Township Engineer.

2. Size and Access

A. Each dead storage by an off-street parking space may be perpendicular with the aisle, parallel with the aisle, or at any angle between sixty (60) degrees and ninety (90) degrees. The following are minimum stall and aisle dimensions:

- i. Perpendicular: ninety (90) degrees: stall width - nine (9) feet; stall depth - eighteen (18) feet; aisle width - twenty (20) feet; Commercial Vehicles and Trailers stalls will be thirty (30) feet in width, sixty (60) feet in depth and maintain an aisle width of sixty (60) feet;
- ii. Angle: sixty (60) degrees to ninety (90) degrees: stall width - ten (10) feet; stall depth -

twenty four (24) feet; aisle width - twenty (20) feet; Commercial Vehicles and Trailers stalls will be thirty (30) feet in width, sixty (60) feet in depth and maintain an aisle width of sixty (60) feet;

iii.Parallel: stall width - twenty-one (21) feet; stall depth - nine (9) feet; aisle width - twelve (12) foot single lane, twenty (20) foot double lane; and

iv.Handicapped Stalls shall be perpendicular and have a stall depth of twenty (20) feet and width of twelve (12) feet with railings on both sides.

B.No area shall be used for parking if it is not large enough to provide for at least three (3) contiguous stalls, unless approval otherwise is obtained from the Planning Commission.

C.When the parking area is designed for angle parking the stalls on both sides shall be inclined so as to permit a driver approaching from one end of the aisle only to have access to the stalls on two (2) sides.

D.In lots having capacity of more than one hundred (100) cars, a main access drive shall be provided from points of ingress and egress. No parking shall be permitted on the main access drive, nor shall it serve as an access aisle to adjacent parking spaces.

E.All parking areas shall be paved in accordance with the requirements of this table and shall include barrier lines, lane lines, directional arrow and stop lines.

F.Entrance and exit drives shall have a minimum width of sixteen (16) feet for those designed for one-way traffic and twenty-four (24) feet for those carrying two-way traffic.

G.All access drives shall provide a minimum turning radius of thirty (30) feet.

H.The approving body for parking and loading plans required by Section 1110- of this Ordinance shall be the Planning Commission.

1110-XDefinitions:

Automobile: A self propelled free moving vehicle, with four or more wheels, primarily for the conveyance on a street or roadway.

Commercial Vehicle: Any motor vehicle licensed by the state as a commercial vehicle.

Junk: Any scrap waste, reclaimable, material or debris, whether or not stored or used in conjunction with the dismantling, processing, salvage, storage, bailing, disposal or other use or disposition.

Junk can include vehicles, tires, vehicle parts, equipment, lumber, metal, rags, wood, brush, household appliances, glass, building materials, food waste or garbage.

Off Street Parking Space: A temporary storage area for a motor vehicle that is directly accessible to an access aisle, and which is not located on a dedicated street right of way.

On Street Parking Space: A temporary storage area for a motor vehicle which is located on a dedicated street right of way.

Open view: When a vehicle can be seen from another property and is not being stored in a fully enclosed garage.

Outdoor Storage: The keeping, in an unroofed area of any goods, junk, material, merchandise or vehicles in the same place for more than twenty-four hours.

Tractors: A structure standing on wheels, hauled or driven by another vehicle and used for short term human occupancy, carrying materials, goods, objects, services or used as a temporary office.

Travel Trailers: A recreational vehicle that is towed by a car or truck. See Recreational Vehicle.

Vehicle, Motor: A self propelled device used for transportation of goods, people and services over land surfaces and licensed as a motor vehicle.

SECTION 1111 Temporary Uses:

A. Permits Required:

A certificate of occupancy issued by the Zoning Officer in accordance with the provisions of this Ordinance is required for any temporary use of land and/or structure.

B. Authorized Temporary Uses:

1. Residential Districts:

- a. Model home in a plan of homes used as a sales office which shall terminate upon the sale or rental of the last property including said unit.
- b. Rental or sales office in a multi-household residential complex.
- c. Outdoor fair, exhibit, show, other special event sponsored by a nonprofit organization.

2. All Other Zoning Districts:

- a. Outdoor fairs, exhibits
- b. Temporary sales events

- c. Other uses as approved by the Zoning Hearing Board
3. No Approval for Temporary Uses shall be granted unless the following are provided:
- a. Adequate off-street parking provided
 - b. Adequate pedestrian and traffic access provided
 - c. Any licenses and permits to sell or handle products or food from governmental agencies shall be submitted prior to the issuance of a certificate of occupancy
 - d. The Henry Clay Township Fire Chief shall be notified of any temporary uses.
 - e. If the temporary-use applicant does not own the land, then a letter stating the applicant is using the land must be submitted by the owner and the applicant
 - f. The applicant is responsible for any activity taking place during the time of the temporary use
 - g. The Zoning Officer may submit the application for a temporary use to the Township planning commission for review and recommendations

C. Temporary Construction Structures:

Temporary structures and trailers used in conjunction with construction work may not be moved onto a site until the building permit has been issued and must be removed within thirty (30) days after the end of the work. Permits for such temporary structures shall not exceed one (1) year.

SECTION 1112 Buffer Areas:

- A. Any use within any district may be required to provide a buffer area where the planning commission deems it necessary to screen or block vision or other types of action associated with the use. The exact placement and type of buffer area shall be determined by the Zoning Officer based upon a recommendation by the planning commission subject to the following regulations.
- B. General Requirements:
 - 1. A buffer area shall provide a year-round screen of the area. Buffers may consist of the following:
 - a. Evergreen and deciduous plants of various species (a living fence). Seventy five percent (75%) of this type buffer shall be Evergreen to remain consistent with year-round screening.

- b. Natural landscapes, provided that such an area is preserved from future development by easement, deed restriction, covenant, or similar restriction.
 - c. A fence or wall between four (4) and six (6) feet high with at least sixty (60) percent of the surface being opaque.
2. Unless otherwise specified, the required depth of a buffer area shall be determined by the Zoning Officer based on the recommendation by the planning commission.
3. When an evergreen or deciduous plant buffer is used, it shall conform to the following:
- a. The buffer zone around a storm water basin shall consist of evergreen trees. Austrian Pine (*Pinus Negra*) shall be used. Each tree should be a minimum of six (6) feet in height at the time of field planting.
 - b. The deciduous plant material shall be of varying heights with a maximum height not to exceed six (6) feet.
 - c. Each planting should be free from disease, insect infestation, and mechanical injuries and in all respects be ready for field planting.
 - d. All plantings should be guaranteed from the period of installation for a period of no less than one year from the date of installation
 - e. All plants should conform to the American Standard for Nurserymen Stock (ANSI.260.1-1986) in regards to sizing, growing and B & B specifications.
 - f. All plants should be situated in a manner that their root systems shall not encroach on underground utilities. Details for plantings should be provided for each type of plant used. This requires cross sections for each type of plant used.
 - g. All plantings in sight triangle areas should not exceed twenty-four (24) inches in height.
4. Fences or walls shall have the same exterior as the principal structure and shall comply with the regulations of Article XI, Section 1107 of this ordinance.
5. The property owner shall be responsible for the maintenance of any and all buffer areas. This includes replacement of dead plant material and removal of all debris, rubbish, and tall grass.

6. No structure, parking area, loading area, storage area, vehicular circulation area shall be allowed in a buffer area.
7. The buffer area shall be contiguous along property lines except for areas used for vehicular or pedestrian access or exiting.
8. The Zoning Officer may authorize a modification in the otherwise applicable buffer area regulations, upon the recommendation of the planning commission, where it deems that:
 - a. A larger buffer area is needed to fulfill the requirements of this Ordinance.
 - b. The changes in elevation along the buffer area between properties demonstrates that little need is found for the buffer area and it may be interrupted as long as the lot to which the buffer area belongs is properly screened.
9. Conflicting districts may use streets and alleys as buffer areas but shall provide screening required in this Article on at least one side of the street or alley.

SECTION 1113 Sexually Oriented Businesses

1113.A - PURPOSE AND INTENT:

It is the purpose of this Ordinance to regulate sexually oriented businesses to promote the health, safety and general welfare of the citizens of Henry Clay Township, and to establish reasonable and uniform regulations to prevent the continued deleterious location and concentration of sexually oriented businesses with the township . The provisions of this Ordinance have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is not the intent nor effect of this Ordinance to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this Ordinance to condone or legitimize the distribution of obscene material.

1113.B - DEFINITIONS:

A. ADULT ARCADE means any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machine, projectors, or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of "specified sexual activities" or "specified anatomical areas."

B. ADULT BOOKSTORE or ADULT VIDEO STORE means a commercial establishment

which, as one of the principal business purposes, offers for sale or rental for any form of consideration any one or more of the following:

- i. Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes or video reproductions, slides, or other visual representations which depict or describe "specified sexual activities" or "specified anatomical areas"; or
- ii. Instruments, devices, or paraphernalia which are designed for use in connection with "specified sexual activities."

A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing "specified sexual activities" or "specified anatomical areas" and still be categorized as **ADULT BOOKSTORE** or **ADULT VIDEO STORE**. Such other business purposes will not serve to exempt such commercial establishment from being categorized as an **ADULT BOOKSTORE** or **ADULT VIDEO STORE** so long as one of its principal business purposes is the offering for sale or rental for consideration the specified materials which depict or describe "specified activities" or "specified anatomical areas."

C. ADULT CABARET means a nightclub, or bar, or similar commercial establishment which regularly features:

- i. Persons who appear in the state of nudity; and
- ii. Live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities"; or
- iii. Films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or by "specified anatomical areas".

D. ADULT MOTEL means a hotel, motel or similar commercial establishment which:

- i. Offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas"; and which advertises the availability of this adult type of photographic reproductions; or
- ii. Offers sleeping rooms for rent four (4) or more times in one calendar day during five (5) or more calendar days in any continuous 30-day period.
- iii. Holds itself out as an establishment encountering, permitting or tolerating sexual activity between three (3) or more persons

E. ADULT MOTION PICTURE THEATER means a commercial establishment where, for any

form of consideration, films, motion pictures, video cassettes, slides, or other photographic reproduction are regularly shown which are characterized by the depiction or description of "special sexual activities" or by "specified anatomical areas."

F.ADULT THEATER means a theater, concert hall, auditorium, or similar commercial establishment which regularly features persons who appear in a state of nudity or live performance which are characterized by the exposure of "specified anatomical areas" or "specified sexual activities."

G.ESCORT means a person who, for consideration, agrees or offers to act as a companion, guide, or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.**H.ESCORT AGENCY** means a person or business association who furnishes, offers to furnish, or advertise to furnish escorts as one of the primary business purposes for a fee, tip, or other consideration.

I.PERMITTEE and/or LICENSE means a person in whose name a permit and/or license or operate a sexually oriented business has been issued, as well as the individual listed as an applicant on the application for a permit and/or license.

J.NUDE MODEL STUDIO means any place where a person who appears in a state of nudity or displays "specified anatomical areas" is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration.

K.NUDITY or a STATE OF NUDITY means the appearance of a human bare buttock, anus, male genitals, female genitals, or female breast.

L.PERSON means an individual proprietorship, partnership, corporation, association, or other legal entity.

M.SEMI-NUDE means a state of dress in which clothing covers no more than the genitals, pubic region, and areola of the female breast, as well as portions of the body covered by supporting straps or devices.

N.SEXUAL ENCOUNTER CENTER means a business or commercial enterprise that, as one of its primary business purposes, offers for any form of consideration:

- i.Physical contact in the form of wrestling or tumbling between persons of the opposite sex; and
- ii.Activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity or semi-nude.

O.SEXUALLY ORIENTED BUSINESS means an adult arcade, adult bookstore or adult video

store, adult cabaret, adult motel, adult motion picture theater, adult theater, escort agency, nude model studio, or sexual encounter center.

P.SPECIFIED ANATOMICAL AREAS means the male genitals and/or the vulva or more intimate parts of the female genitals.

Q.SPECIFIED SEXUAL ACTIVITIES means and includes any of the following:

- i. The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts;
- ii. Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy;
- iii. Masturbation, actual or simulated; or
- iv. Excretory functions as part of or on connection with any of the activities set forth in i. through iii. above.
- v. Definitions: Specified Sexual Activities
 1. Sexual intercourse
 2. Oral sex
 3. Anal sex
 4. Bestiality
 5. Masturbation
 6. Sadism
 7. Masochism
- vi. Specified anatomical areas shall be defined as the unclothed:
 1. Female breasts
 2. Female or male genitalia
 3. Buttocks
 4. Anus

R.SUBSTANTIAL ENLARGEMENT of a sexually oriented business means the increase in floor areas occupied by the business by more than twenty-five percent (25%), as the floor areas exist on date of enactment of this Ordinance.

S.Township means Township of Henry Clay.

T.TRANSFER OF OWNERSHIP OR CONTROL of a sexually oriented business means and includes any of the following:

- i. The sale, lease, or sublease of the business;

- ii. The transfer of securities which constitute a controlling interest in the business, whether by sale, exchange, or similar means; or
- iii. The establishment of a trust, gift, or other similar legal device which transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

1113.C - CLASSIFICATION:

Sexually oriented businesses are classified as follows:

- A. Adult arcades;
- B. Adult bookstores or adult video stores;
- C. Adult cabarets;
- D. Adult motels;
- E. Adult motion picture theaters;
- F. Adult theaters;
- G. Escort agencies;
- H. Nude model studios; and
- I. Sexual encounter centers.

1113.D - PERMIT REQUIRED:

- A. Any person who operates a sexually oriented business without a valid permit issued by the township is guilty of a violation of the Zoning Ordinance of the township.
- B. An Application for a permit to operate a sexually oriented business must be made on a form provided by the Code Enforcement Officer of the township . The application must be accompanied by a sketch or diagram showing the floor plan and plot plan configuration of the premises, including a statement of total floor space occupied by the business. The sketch or diagram need not be professionally prepared but must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to any accuracy of plus or minus six inches.
- C. If a person who wishes to operate a sexually oriented business is an individual, he must sign the application for a permit as applicant. If a person who wishes to operate a sexually oriented business is other than an individual, each individual who has a ten percent (10%) or greater interest in the business must sign the application for a permit as applicant. If a corporation is listed as owner of a sexually oriented business or as the entity which wishes to operate such a business, each individual having a direct or indirect interest of ten percent (10%) or greater in the corporation must sign the application for a permit as applicant.
- D. The fact that a person possesses other types of township permits does not exempt the person from the requirement of obtaining a sexually oriented business permit.

1113.E - ISSUANCE OF PERMIT:

- A. The Henry Clay Township Code Enforcement Officer shall approve the issuance of a permit to an applicant within thirty days after receipt of an application unless it finds one or more of the following to be true:
- i. An applicant is under eighteen (18) years of age.
 - ii. An applicant or an applicant's spouse is overdue in his payment to the Township of taxes, fees, fines, or penalties assessed against him or imposed upon him in relation to a sexually oriented business.
 - iii. An applicant has failed to provide information reasonable necessary for issuance of the permit or has falsely answered a question or request for information on the application form.
 - iv. An applicant is residing with a person who has been denied a permit by the township to operate a sexually oriented business within the preceding twelve (12) months, or residing with a person whose license to operate a sexually oriented business has been revoked within the preceding twelve (12) months.
 - v. The premises to be used for the sexually oriented business have been reviewed and have been disapproved by either the Code Enforcement Officer or the Fire Marshall as not being in compliance with applicable laws and ordinances.
 - vi. The application fee required by this ordinance has not been paid.
 - vii. An applicant of the proposed establishment is in violation of or is not in compliance with any of the provisions of this Ordinance.
 - viii. An individual applicant or any individual holding a direct or indirect interest of more that ten (10%) percent of a corporate applicant, or any of the officers and directors of a corporate applicant, if the applicant is a corporation; or any of the partners, including limited partners, if the applicant is a partnership; or the manager or other person in charge of the operation of the applicant's business, has or have been convicted of an offense involving sexual misconduct within the Commonwealth of Pennsylvania, including, but not limited to, prostitution, obscenity and possession of child pornography, or convicted of any offense in any jurisdiction other than the Commonwealth of Pennsylvania that would have constituted an offense involving sexual misconduct if committed within the Commonwealth of Pennsylvania. In order for approval to be denied pursuant to this subsection, the person or persons' convicted or release in connection with the sexual misconduct offense must have occurred within two (2) years of the date of

application in the event of a misdemeanor and within five (5) years of the date of application in the event of a felony.

- B. The permit, if granted, shall state on its face the name of the person or persons to whom it is granted, the expiration date, and the address of the sexually oriented business. The permit shall be posted in a conspicuous place at or near the entrance to the sexually oriented business so that it may be easily read at any time.
- C. The Code Enforcement Officer and Fire Marshall shall complete their certification that the premises are in compliance or not in compliance within twenty days of receipt of the application by the Code Enforcement Officer. The certification shall be promptly presented to the Code Enforcement Officer.

1113.F - FEES:

The annual fee for a sexually oriented business permit is a minimum of Five thousand dollars (\$5,000.00).

1113.G - INSPECTION :

- A. An applicant, engineer or permittee, shall permit at any time without notice, representatives of the Police Department, Fire Marshall, Code Enforcement Officer, Engineer, or other township departments or agencies to inspect the premises of a sexually oriented business for the purpose of insuring business is occupied or open for business.
- B. If the township Code Enforcement Officer denies renewal of a license, the applicant shall not be issued a permit for one year from the date of denial, except that after ninety(90) days have elapsed since the date of denial, the applicant may be granted a permit if the Code Enforcement Officer finds that the basis of denial of the renewal permit has been corrected or abated.

1113.H - EXPIRATION OF PERMIT:

- A. Each permit shall expire one (1) year from the date of issuance and may be renewed only by making application as provided in Section 5. Application for renewal should be made at least thirty (30) days before the expiration date and, when made less than thirty (30) days before the expiration date, the pendency of the application will not prevent the expiration of the permit.
- B. If the Henry Clay Township Code Enforcement Officer denies renewal of a license, the applicant shall not be issued a permit for one year from the date of denial, except that after ninety (90) days have elapsed since the date of denial, the applicant may be granted a permit if the Code Enforcement Officer finds that the basis for denial of the renewal permit has been corrected or abated.

1113.I - SUSPENSION OF PERMIT:

The Code Enforcement Officer shall suspend a permit for a period not to exceed thirty (30) days if he determines that a permittee or an employee of a permittee or an occupant of the premises has:

- A. Violated or is not in compliance with any section of this Ordinance;
- B. Engaged in excessive use of alcoholic beverages while on the sexually oriented business premises;
- C. Refused to allow an inspection of the sexually oriented business premises as authorized by this Ordinance;
- D. Knowingly permitted gambling by any person on the sexually oriented business premises;
- E. Failed to man managers' stations and/or maintain viewing rooms as set forth in section 13.

1113. J - REVOCAION OF PERMIT:

- A. The Code Enforcement Officer shall revoke a permit if a cause of suspension set forth in Section 9 occurs and the permit has been suspended within the preceding twelve (12) months.
- B. The Code Enforcement Officer shall revoke a permit if he determines that:
 - i. A permittee, or any of the persons specified in Section 5 (A)(viii), is or has been convicted of the offenses specified in Section 5 (A)(viii);
 - ii. A permittee gave false or misleading information in the material submitted to the Township during the application process;
 - iii. A permittee or an employee of a permittee has knowingly allowed possession, use, or sale of controlled substances on the premises;
 - iv. A permittee or an employee of a permittee has knowingly allowed prostitution on the premises;
 - v. A permittee or an employee of a permittee knowingly operated the sexually oriented business during a period of time when the permittee's permit was suspended;
 - vi. A permittee or an employee of a permittee has knowingly allowed any act of sexual intercourse, sodomy, oral copulation, masturbation, or other explicit sexual conduct to occur in or on the permitted premises;
 - vii. A permittee is delinquent in payment to the township or State of any taxes or fees

relating to sexually oriented businesses;

viii. Any person performing, acting or depicted in the activity is under the age of 18, or any person viewing such activity or allowed admittance is under the age of 18.

C. When the Henry Clay Township Code Enforcement Officer revokes a permit, the revocation shall continue for one (1) year, and the permittee shall not be issued a sexually oriented business permit for one (1) year from the date revocation became effective, except that if the revocation is pursuant to (B)(I) above, the revocation shall be effective for two (2) years in the event misdemeanor or five (5) years in the case of a felony.

D. After denial of any application, or denial of a renewal of an application, or suspension or revocation of a permit, the applicant or license or permittee shall have the right to appeal said action and to seek prompt judicial review of such administrative action in any court of competent jurisdiction.

1113.K- TRANSFER OF PERMIT:

A permittee shall not transfer his permit to another person. A permittee shall not operate a sexually oriented business under the authority of a permit at any place other than the address designated in the application.

1113.L - LOCATION OF SEXUALLY ORIENTED BUSINESSES:

A. A person is guilty if a violation of the Zoning Ordinance if he operates or causes to be operated a sexually oriented business outside of the district in which a sexually oriented business is a permitted use. No sexually oriented businesses shall be located outside a district in which a sexually oriented business is a permitted use. Sexually oriented businesses as defined herein shall be permitted in MU Multiple Use Zoning District as a Special Exception.

B. A person is guilty of a violation of the Zoning Ordinance if he operates or causes to be operated a sexually oriented business within one thousand feet (1000') of:

i. A church, synagogue or other religious facility;

ii. A public or private pre-elementary, elementary, or secondary school, college, university or any institution of higher learning;

iii. A public library;

iv. A child care facility, or nursery school;

v. A public park adjacent to any residential district.

- C. A person is guilty of a violation of the Zoning Ordinance if he causes or permits the operation, establishment, substantial enlargement, or transfer of ownership or control of a sexually oriented business within five thousand feet (5000') of another sexually oriented business.
- D. A person is guilty of a violation of the Zoning Ordinance if he causes or permits the operation, establishment, or maintenance of more than one sexually oriented business in the same building, structure, or portion thereof; or the increase of floor areas of any sexually oriented business in any building, structure, or portion thereof containing another sexually oriented business.
- E. For the purpose of this Ordinance, measurement shall be made in a straight line, without regard to intervening structures or objects, from the nearest property line of the premises on which the building or structure used as a part of the premises where a sexually oriented business is located, to the nearest property line of the premises of a church, public or private pre-elementary, elementary, or secondary school, public library, child care facility, or nursery school; or to the nearest boundary of an affected public park.
- F. For purposes of subsection C of this section, the distance between any two sexually oriented businesses shall be measured in a straight line, without regard to intervening structures or objects, from the closest property line of the premises on which each business is located.
- G. An sexually oriented business lawfully operating on date of enactment of the Ordinance that is in violation of subsection A through F of this section shall be deemed a non-conforming use. Such non-conforming uses shall not be increased, enlarged, extended or altered, except that the use may be changed to a conforming use. In the event that two or more sexually oriented businesses are within five thousand (5,000') feet of one another and otherwise in a permissible location, the sexually oriented business which was first established and continually operating at a particular location is the conforming use and the later-established business is non-conforming.
- H. A sexually oriented business lawfully operating as a conforming use is not rendered a non-conforming use by the location, subsequent to the grant or renewal of the sexually oriented business permit, of a church, public or private pre-elementary, elementary, or secondary school, public library child care facility, nursery school or public park within one thousand (1,000') feet of the sexually oriented business. This provision applies only to the renewal of a valid permit, and does not apply when an application for a permit is submitted after a permit has expired or has been revoked.

1113.M - REGULATIONS PERTAINING TO EXHIBITION OF SEXUALLY EXPLICIT FILMS OR VIDEOS:

- A. A person who operates or causes to be operated a sexually oriented business which exhibits on the premises in a viewing room (a separate compartment or cubicle) of less than one hundred fifty (15) square feet of floor space, a film or video cassette, or other video or other image production or reproduction which depicts "specified sexual activities" or "specified anatomical areas" shall comply with the following requirements:
- i. The application for a permit to operate a sexually oriented business shall be accompanied by a floor plan and plot plan diagram of the premises showing a plan thereof specifying the location of one or more manager's stations, the location of all viewing rooms, partitions and doors and location of all overhead lighting fixtures and designating any portion of the premises in which patrons will not be permitted. A manager's station may not exceed thirty-two (32) square feet of floor area. The diagram shall also designate the place at which the permit will be conspicuously posted, if granted. A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall not be required; however, each diagram should be oriented to the north or to some designated street or object and should be drawn to a designated scale or with marked dimensions sufficient to show the various internal dimensions of all areas of the interior of the premises to an accuracy of plus or minus six (6") inches. The Code Enforcement Officer may waive the foregoing diagram that was previously submitted and certified that the configuration of the premises has not been altered since it was prepared.
 - ii. The application shall be sworn to be true and correct by the applicant.
 - iii. No alteration in the configuration or location of a manager's station may be made without the prior approval of the Code Enforcement Officer or his designee.
 - iv. It is the duty of the owners and operators of the premises to ensure that at least one (1) employee is on duty and situated in each manager's station at all times that any patron is present inside the premises.
 - v. The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises to which any patron access for any purpose, excluding restroom facilities. Restroom facilities may not contain video reproduction or viewing equipment. If the premises has two or more manager's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose from at least one of the manager's stations. The view required in this subsection must be by direct line of sight from the manager's station.

- vi. It shall be the duty of the owners and operators, and it shall also be the duty of any agents and employees present on the premises to ensure that the view area specified in subsection v. remains unobstructed by any doors, walls, merchandise, display racks or other materials at all times and to ensure that no patron is permitted any access to any area of the premises which has been designated as an area in which patrons will not be permitted in the application filed pursuant to subsection i. of this section.
- vii. No viewing room may be occupied by more than one (1) person at any time. No connections or openings to an adjoining viewing room shall be permitted.
- viii. The premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than one (1) foot candle as measured at the floor level.
- ix. It shall be the duty of the owners and operators and it shall also be the duty of any agents and employees present in the premises to ensure that the illumination described above is maintained at all times that any patron is present in the premises.
- x. There shall be placed in plane view operating video security cameras attached to a tape recording system. Tapes shall be retained of all activity during all hours of operation for thirty (30) days. Signs shall be posted advertising of the video tape system and that tapes shall be retained.

B. A person having a duty under subsection I through ix. of subsection A is guilty if a violation of the Zoning Ordinance if he knowingly fails to fulfill that duty:

1113.N - EXEMPTIONS:

- A. It is a defense to a prosecution under Section 5 and Section 12 that a person appearing in a state of nudity did so in a modeling class operated in a viewing room.
 - i. By a proprietary school, licensed by the Commonwealth of Pennsylvania, or a college, junior college, or university supported entirely or partly by taxation;
 - ii. By a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or
 - iii. In a structure -
 - (a) which has no sign visible from the exterior of the structure and no other advertising that indicates a nude person is available for viewing; and

- (b) where, in order to participate in a class, a student must enroll at least three (3) days in advance of the class; and
- (c) where no more than one (1) nude model is on the premises at any one time.

1113.0 - INJUNCTION:

A person who operates or causes to be operated a sexually oriented business without a valid permit or on violation of this Ordinance is subject to an action in equity or a suit for injunction as well as citations for violations of the Zoning Ordinance.

1113.P - SEVERABILITY:

The provisions of the Ordinance are severable and, if any section, sentence, clause, part or provision hereof shall be held illegal, invalid or unconstitutional by any court or competent jurisdiction, such decision of the court shall not affect the remaining sections, sentences, clauses, parts or provisions of this Ordinance. It is hereby declared to be the intent of the Henry Clay Township Board of Supervisors that this Ordinance would have been adopted is such illegal, invalid or unconstitutional section, sentence, clause, part or provision had not been included herein.

ARTICLE XII
NONCONFORMITIES

SECTION 1201 Continuation:

- A. Continuation:
1. Subject to the provisions of this section, a use of a building, structure, or existing land use on the effective date of this Ordinance may be continued even though such use does not conform to the provisions of these regulations for the district in which it is located, provided such nonconforming conditions shall comply with the provisions of this Article.
 2. The Zoning Officer shall keep and maintain a list of all non-conformities existing at the time of the passage of this Ordinance and which may come to exist in the future.
 3. The owner of the nonconforming premises may obtain a certificate of nonconformity which shall be used for the purpose of ensuring to the owner the right to continue the nonconformity. Application shall be made with the Zoning officer and said officer shall take note of all non-conformities of the property and keep it under record.

SECTION 1202 Unlawful Use Not Authorized:

Nothing in this section shall be interpreted as authorization for approval of the continuance of the use of a structure or premises in violation of the zoning regulations in effect at the time of the effective date of this Ordinance.

SECTION 1203 Nonconforming Structures, Alteration and Repair:

- A. Nothing in this section shall prevent the restoration or maintenance of a structure which will return the structure to a safe condition.
- B. A nonconforming building or structure may be altered, repaired, enlarged, or reconstructed provided its nonconformity is not increased and the structure complies with other applicable requirements of this Ordinance.
- C. If a nonconforming use is destroyed totally or partially by natural or artificial disaster, it may be reconstructed to the same nonconforming use, provided that:
1. Reconstruction must commence within one (1) year of the date of destruction and must be completed within one (1) year of the issuance of the building permit.
 2. Reconstruction must comply with applicable building codes at the current time.
- D. A conforming use in a nonconforming structure may expand within the structure.

- E. A nonconforming structure shall not be moved to any other location on the lot or to another lot unless every portion of such structure, the use thereof, and the lot shall be in conformance with the provisions of this Ordinance.

SECTION 1204 Alteration of a Nonconforming Use:

- A. To allow for economic growth, a nonconformity may be altered in terms of gross floor area or lot coverage, (measured in square feet). If no building exists, the following regulations shall apply:
 - 1. Structures in residential or mixed residential districts may expand up to a thirty percent (30%) increase.
 - 2. Structures in commercial and industrial districts may expand up to a fifty percent (50%) increase.
- B. Alteration shall comply with the following:
 - 1. Applicable area and dimensional requirements.
 - 2. Shall not change a presently conforming building, structure or use to a nonconforming one.
 - 3. Shall not extend nonconforming use onto another lot or parcel.
 - 4. Shall not reduce any off-street parking or loading areas that fulfill the regulations of this Ordinance.
- C. The Zoning Hearing Board may authorize an alteration which exceeds the allowable percentages if the expansion is to provide off-street parking or loading areas or to correct a hazardous or unsafe condition in violation of a local, county, state, or federal law and the expansion is not detrimental to surrounding areas.

SECTION 1205 Change of Nonconforming Use:

- A. When a nonconforming use is changed to a conforming one, it shall not be subsequently changed to a nonconforming use. A nonconforming use may be changed to a similar nonconforming use or one which more closely conforms to the uses authorized in the zoning district. A change of one nonconforming use to another requires review and approval by the Zoning Hearing Board, in accordance with the following:

1. The proposed use is within the same type of use category as the original nonconforming use or is a use that is more closely conforming to the current district regulations. In making a judgment on similar uses, the Board shall be guided by the Standard Industrial Classification Manual, Federal Office of Management and Budget.
2. The proposed use shall not be any more detrimental than the original nonconforming use and shall be guided by the regulations of this Ordinance.

SECTION 1206 Abandonment of Nonconforming Use:

- A. A nonconforming use which has been abandoned shall not be returned to a nonconforming use. A nonconforming use shall be deemed abandoned when one (1) or more of the following conditions have been met:
 1. The intent of the owner to discontinue the use is apparent. Examples of possible abandonment are: discontinued use of the structure, boarding up of windows or entrances, and maintenance or upkeep of structure discontinued.
 2. A nonconforming use has been discontinued for a period of twelve (12) consecutive months or a total of twelve (12) months within a period of eighteen (18) months.
 3. It has been replaced by a conforming use.
 4. It has been changed to another nonconforming use under permit from the Zoning Hearing Board.

SECTION 1207 Nonconforming Lot of Record:

- A. A single or two (2) household residential dwelling may be erected on any lot of record in any R-1 and R-2 District respectively as long as the following requirements are met:
 1. The lot is displayed on a recorded plat or deed to have been owned separately and individually from adjoining tracts of land at a time when the creation of a lot of such size was not regulated or prohibited by any zoning ordinance in existence at that time.
 2. The lot has remained separate and individual of any other lots during the time that the creation of such lots has been prohibited by the applicable zoning ordinance.
- B. Construction permitted by the above shall comply with all regulations, except lot area and width.

SECTION 1208 Termination of Nonconforming Signs:

- A. Upon adoption of this Ordinance, the Zoning officer shall prepare a list of all nonconforming signs.
- B. If the existing use ceases, any new use shall be conforming.
- C. If the Zoning Officer designates repairs to a nonconforming sign and the repairs are equal to or greater than sixty percent (60%) of the sign's replacement value, the sign shall be brought into conformance as part of the repairs.
- D. Nonconforming signs cannot be enlarged or altered except for safety reasons or to be brought into or closer to conformity with the provisions of this Ordinance.

SECTION 1209 Special Exception and Conditional Uses:

- A. Any use which a Conditional Use or Special Exception Use permit has been issued as provided for by this Ordinance shall be considered as a lawful conforming use.
- B. Where a use exists at the effective date of this Ordinance and is permitted by this ordinance only as a conditional or special exception use in the zoning district in which it is located, then it shall be deemed to be a lawful nonconforming use in such zoning districts.

SECTION 1210 District Changes:

Whenever the boundaries of a district change so as to transfer an area from one district to another of a different classification, the foregoing provisions shall apply to any nonconforming use, structure or lot or record existing therein.

ARTICLE XIII
ADMINISTRATION AND ENFORCEMENT

SECTION 1301 Zoning Officer:

A. Zoning Enforcement:

A Zoning Officer shall be appointed by the township supervisors to administer and enforce this Zoning Ordinance. The Zoning Officer shall not hold any elective office in the municipality.

B. Duties and Powers of Zoning Officer:

It shall be the duty of the Zoning Officer to enforce literally the provisions of this Ordinance, as amended, and he or she shall have such duties and powers as are conferred on him or her by this Ordinance and as are reasonably implied for that purpose. The Zoning Officer's duties shall include but are not limited to the following:

1. Receive application for and issue zoning permits and sign permits.
2. Keep an official record of all business and activities, including complaints of a violation of any of the provisions of this Ordinance and of the action taken consequent on each such complaint. All such records shall be open to public inspection. File copies of all applications received, permits issued, reports and inspections made in connection with any structure, building, sign and/or land, shall be retained as long as they remain in existence.
3. Make inspections as required to fulfill his duties. He shall have the right to enter any building or structure or enter upon any land at any reasonable hour in the course of his duties.
4. Issue permits for special exception uses and for variances only after such uses and/or buildings have been approved by the Zoning Hearing Board in accordance with the regulations of this Ordinance.
5. Be responsible for keeping this Ordinance and the Zoning Map up to date so as to include all amendments thereto.
6. Institute civil and/or criminal enforcement proceedings as a means of enforcement.
7. Notification about non-conforming uses.

C. Notice of Violations:

The Zoning Officer shall serve a notice of violation on any person, firm, corporation, or partnership responsible for violating any of the provisions of this Ordinance, or in violation of a detailed statement or a plan approved thereunder. Notice of violation shall be in writing, indicating the nature of the violation and action necessary to correct same.

If the notice of violation is not complied with, the Zoning Officer shall order the discontinuance of such unlawful use of structure, building, sign and/or land. The violation notice shall be sent to the owner of record of the parcel on which the violation has occurred, to any person who has filed a written request to receive violation notices regarding that parcel, and to any other person requested in writing by the owner of record. The violation notice shall include at least the following information:

1. Name of the owner of record and any other person against whom the Township intends to take action;
2. Location of the property in violation;
3. Specific violation(s) with a description of the requirements which have not been met, referring applicable provisions of the Henry Clay Township Zoning Ordinance;
4. Date before which the steps for compliance must be commenced and the date before which the steps must be completed;
5. Rights of appeal and prescribed appeal time period of the recipient according to the Henry Clay Township Zoning Ordinance; and
6. Notice that failure to comply within the time period, unless extended by the Zoning Hearing Board, constitutes a violation, and possible sanctions clearly described.

SECTION 1302 Building Permit:

No building, structure, or sign shall be erected, constructed, moved, added to, or structurally altered, nor shall land be put to any use without a permit therefor, issued by the Zoning Officer. No such permit shall be issued except in conformity with the provisions of this Ordinance, or upon written order from the Zoning Hearing Board in the form of an administrative review, special exception, or variance as provided by this Ordinance or by the Court.

A. Form of Application:

All applications shall be made in writing and shall be accompanied by two sets of plans showing at least the following information:

1. Actual dimensions and shape of the lot to be built upon.
2. The exact size and location on the lot of buildings, structures, or signs existing and/or proposed extensions thereto.
3. The number of dwelling units, if any, to be provided.
4. Methods of sewage and solid waste disposal, plus information on quantity and quality of sewage involved and proposed method of treatment if required.
5. Parking spaces provided and/or loading facilities.
6. Statement indicating the existing or proposed use.
7. Height of structure, building, or sign.
8. All other information necessary for such Zoning Officer to determine conformance with and provide for enforcement of this Ordinance.
9. Verification of conformance with Pennsylvania Workers Compensation requirements to contractors, or documentation of exemption from these requirements.

One (1) copy of the plans shall be returned to the applicant by the Zoning Officer after he shall have marked such copies either as approved or disapproved and attested to same by his signature on such copy.

One (1) copy of all such plans shall be retained by the Zoning Officer for his permanent records.

Such approval and Building Permit shall be issued or refused within thirty (30) days from date of application. In case of refusal, the applicant shall be informed of his rights of appeal. The application for a permit shall be submitted in such form as the Zoning Officer may prescribe.

B. Expiration of Building Permit:

Building permit shall expire within ninety (90) days from date of issuance, if work described in any permit has not begun. If work described in any building permit has begun, said permit shall expire after one (1) years from date of issuance thereof.

SECTION 1303 Certificate Of Use And Occupancy:

A Certificate of Use and Occupancy shall be required upon the completion of the work contemplated. It shall be unlawful to use and/or occupy any structure, building, and/or land portions thereof in any manner until a Certificate of Use and Occupancy has been issued.

A. Form of Application:

The application for Certificate of Use and Occupancy shall be submitted in such form as the Zoning Officer may prescribe.

B. Issuance of Certificate of Use and Occupancy:

1. The Zoning Officer shall inspect any structure, building, sign, and/or land or portions thereof and shall determine the conformity therewith. If he/she is satisfied that the completed work is in conformity with this Ordinance and with the work listed in the Building Permit, he/she shall issue a Certificate of Use and Occupancy.
2. Certificate of Use and Occupancy shall be granted or refused in writing, within ten (10) days from the date of application.

SECTION 1304 Schedule Of Fees:

Each application for a building permit shall be accompanied by cash, certified check or money order payable to Henry Clay Township in accordance with the schedule of fees adopted by the Henry Clay Township Supervisors.

SECTION 1305 Remedies:

In case any buildings or structures are erected, constructed, reconstructed, altered, repaired, converted, or maintained or any building, structure or land is used, in violation of this Ordinance, the Governing Body, or with their approval the Zoning Officer, in addition to other remedies, may institute in the name of Henry Clay Township any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use to restrain, correct, or abate such violation, to prevent the occupancy of said building, structure or land, or to prevent any illegal act, conduct, business or use in or about such premises.

SECTION 1306 Penalties:

Any person, partnership or corporation who or which has violated or permitted the violation of the provisions of this zoning ordinance shall upon being found liable therefore in a civil enforcement proceeding commenced by the township pay a judgment not more than \$500 plus all court costs, including reasonable attorney fees incurred by the township as a result thereof. No judgment shall commence or be imposed, levied, or payable until the date of the determination of a violation by the district magistrate. If the defendant neither pays nor timely appeals the judgment, the township may enforce the judgment pursuant to applicable rules of civil procedure.

Each day that a violation continues shall constitute a separate violation, unless the district magistrate determining that there was a good faith basis for the defendant to have believed there was no 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 magistrate 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 zoning ordinance shall be paid over to Henry Clay Township. The court of common pleas, upon petition may grant an order of stay, upon cause shown, tolling the per diem fine pending a final adjudication of the violation and judgment.

SECTION 1307 Changes And Amendments:

Whenever it is deemed desirable in order to meet the public needs; promote the convenience welfare and safety of the public; conform with good zoning practice and the intent and purpose of this Ordinance; and adhere to the guiding principles of the Comprehensive Master Plan; the Township may amend, supplement, or change the regulations, district boundaries, or classifications of property, now or hereafter established by this Ordinance, subject to the procedure provided in this section.

Any amendment, supplement, reclassification, modification or change may be initiated by any of the following:

1. The planning commission may initiate action by filing a written report to the Governing Body; or
2. The Governing Body may initiate action by filing a written request to the Planning Commission; or
3. If 51% of the frontage of a property found between two (2) intersecting streets is proposed for change, the owner(s) may submit a notarized petition of appeal to the Township;
4. The owner of a tract of land may submit a petition for a zoning amendment to Township Supervisors. An owner should be defined as landowner under the Pennsylvania Municipalities Planning Code.
5. No zoning change will occur for a parcel or parcels less than twenty acres.

A. Petition for Map Change, Amendment or Special Exception:

1. Form and Content:

Petitions for change of district boundaries or reclassification of districts as shown on the Official Zoning Map shall be on forms supplied by the Planning Commission. A narrative description which: (1) defines the limits of the requested change by street name or recognizable physical feature; (2) states the specific reason for the requested change and (3) states the specific use, type of development and type of structure to be erected under proposed change. A map and/or preliminary site plans of the area to be rezoned shall also be submitted to the commission for reference and review by the Commission.

2. Preliminary Review by planning commission:

After the facts are presented and the data and information from the petition are reviewed and studied by the planning commission, the commission shall, within fifteen (15) days after regularly scheduled meeting, submit the petition with its preliminary recommendations to the Henry Clay Township Supervisors. The preliminary report by the Planning Commission is not intended to establish final approval by the Commission but rather to serve as a means of providing a format for action and review by the Township Supervisors.

B. Action by Henry Clay Township Supervisors:

1. Subsequent to the introduction of the Petition for Zoning Change and Preliminary Report by the planning commission to the township, the Supervisors Members shall fix a time for a public hearing, pursuant to Public Notice: requirements.
2. Public Notice shall include the time and place of the public hearing for consideration of the proposed amendment, supplement, or change, stating when and where a copy of the proposal will be available for public inspection, and briefly describe the change proposed.
3. In addition, if the proposed amendment involves a zoning map change, notice of said public hearing shall be conspicuously posted by the township at points deemed sufficient by the township along the perimeter of the tract to notify potentially interested citizens. The affected tract or area shall be posted at least one week prior to the date of the hearing.

C. Fayette County Planning Office of Planning and Community Development Review:

The township Supervisors shall submit the proposed amendment to the Fayette County Planning Office of Planning and Community Development for recommendation at least 10 days prior to the public hearing.

D Conduct of Public Hearing:

The township supervisors members or an examining officer appointed by the township supervisors members shall be responsible for the conduct of the public hearing, advertised in conformance with Public Notice. The purpose of the Public Hearing is to receive relevant facts, data, comments, opinions, and other material desirable and necessary for a decision on the petition for change.

If after the public hearing the proposed amendment is changed substantially, or is revised to utilize land previously not affected by it, the Township Supervisors shall hold another public hearing, pursuant to Public Notice requirements, prior to proceeding to vote on the amendment.

E Final Report by planning commission:

Within thirty (30) days following the public hearing, the planning commission shall review all material, data, testimony and facts submitted for consideration in the petition for change. The commission shall make a final report on the Petition for change setting forth in detail reasons wherein public necessity, convenience and general welfare do or do not justify the proposed change and determining that the change is or is not in accord with the general objectives of the Comprehensive Plan and good zoning practices and shall forward its findings and recommendations to the township supervisors members.

If the planning commission fails to file such a report within the specified time in the specified manner, it shall be presumed that the planning commission has approved the proposed amendment, supplement or change. In any event the recommendation of the Planning Commission shall be regarded as advisory in nature and shall not be binding on the Township or other parties to the issue.

F Publication:

Notice of the proposed enactment shall include the time and place of the meeting when passage will be considered, and a reference to the place where copies of the amendment may be examined without charge or obtained at cost. The Henry Clay Township Supervisors Members shall publish the proposed amendment once each week for two (2) successive weeks in a newspaper of general circulation in Henry Clay Township. Such notice shall state the time, place of the meeting, and the particular nature of the matter to be considered at the meeting. The first publication shall not be more than 30 days and the second publication shall not be less than 7 (seven) days from the date of the meeting.

Publication of the proposed amendment shall include either the full text or the title and brief summary, prepared by the Township Solicitor. If the full text is not included, a copy will be supplied to the newspaper at the time public notice is published, and an attested copy of the proposed ordinance will be filed at the Fayette County Law Library. If substantial changes are made to the amendment after this point, the Township Supervisors Members shall re-advertise a brief summary setting forth all provisions and changes, according to the aforementioned notice requirements enactment in a newspaper of general circulation in Henry Clay Township.

G. Final Action by the Township Supervisors Members:

1. The passage of an ordinance amending, supplementing, or changing the regulations, district boundaries, or classification of property, now or hereafter established by this ordinance, shall require the affirmative vote of a majority of the Township Supervisors Members.
2. Any ordinance amending, supplementing or changing the regulations, district boundaries or classifications of property hereinafter established by this ordinance, if not passed by the township within ninety (90) days after the required public hearing, shall require a new public hearing.
3. Within 30 days after the enactment, the township supervisors Members shall forward a copy of the amendment to the Fayette County Office of Planning and Community Development.

H. Fees Any person other than the township supervisors members or Planning Commission requesting an amendment of the zoning ordinance shall pay a fee of one hundred dollars (\$100) at the time the request is filed to the Secretary of the Township. At the conclusion of the proceedings the township may assess the applicant for the cost incurred by the Township in the conduct of the proceedings. All fees shall be paid to the Township to be deposited in the General Fund. No part of the fees shall be refunded to the applicant.

I. Appeals to Zoning Hearing Board:

Any persons, corporation, or individual aggrieved by any decision on modification, amendment, or special exception by the township may, within thirty (30) days after such decision by the township, seek a review and hearing by the Zoning Hearing Board in a manner provided under this Ordinance.

SECTION 1308 Landowner Curative Amendment:

A landowner who desires to challenge the validity of the zoning ordinance, map or any provision thereof, on substantial grounds, which prohibits or restricts the use or development of land in which he has an interest, may submit a curative amendment to the Township Supervisors Members with a written request that his challenge and proposed amendment be heard and decided. The Township Supervisors Members shall commence a public hearing within 60 days of the written request.

A. Notification

The Henry Clay Township Planning Commission and the Fayette County Office of Planning and Community Development, shall be submitted the proposed amendments at least 30 days prior to the public hearing.

B. Publication

Publication requirements of this Ordinance apply.

C. Public Hearings

The hearing shall be conducted in accordance with this ordinance, and all references therein to the zoning hearing board shall, for the purposes of this section, refer to the township supervisors members.

D. Invalidation Limitation

If the township supervisors members do not accept the landowner's curative amendment 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 or maps, but only for those provisions which specifically relate to the landowners' curative amendment and challenge.

E. Enactment Options

If it is determined that the challenge has merit, the township supervisors Members may accept the landowner's curative amendment with or without revision, or may adopt an alternative amendment which cures the challenged defects. In addition, to the curative amendments, plans, and information submitted by the landowner, the township supervisors members shall also consider the following:

1. A report of the proposal on roads, sewer facilities, water supplies and other public facilities;
2. A report of residential proposals on regional housing needs and their effectiveness in providing housing units of the type available to and affordable by classes of persons otherwise excluded by the challenged ordinance or map;

3. Site suitability in relation to physiographic features;
4. A report of the proposed use on physiographic and environmental considerations;
5. A report on agricultural preservation, public health and public welfare considerations.

SECTION 1309 Municipal Curative Amendments:

The township supervisors members may determine that this zoning ordinance or sections thereof are substantially invalid. This determination shall declare by formal action the Sections substantially invalid and propose a curative amendment to overcome this invalidity.

- A. Within 30 days of this declaration and proposal the township supervisors Members shall:
 1. Make specific findings setting forth the declared invalidity which may include specific uses, class of uses or references to the entire ordinance.
 2. Begin to prepare and consider a curative amendment to correct the declared invalidity.
- B. Within 180 days of the declaration and proposal, the township supervisors Members shall enact a curative amendment to validate, or reaffirm the validity of, its zoning ordinance pursuant to the procedures outlined in Section 707 of this ordinance.
- C. After using these procedures, the township may not again utilize this method for a 36-month period following the date of a curative amendment, or reaffirmation of its zoning ordinance, unless a new duty or obligation is imposed on the township by a change in statute or Pennsylvania Appellate Court Decision after the date of declaration and proposal. In this case the Township may use the provision of this section to fulfill said duty or obligation.

SECTION 1310 Conditional Uses:

The Henry Clay Township Supervisors shall hear and decide upon allowable conditional uses in accordance with the following procedure:

- A. A written application for a conditional use must be submitted to the Zoning Officer indicating the Section of the Zoning Ordinance under which the conditional use is being sought, and stating the grounds on which it is being requested. The application must be accompanied by payment of the required fees to facilitate further processing.
- B. A copy of the application for a conditional use shall be submitted to the Planning Commission for review. The commission shall then make a recommendation to township Supervisors.

- C. A public hearing shall be held at which time any party may appear in person, by agent, or by attorney.
- D. The hearing shall be held in accordance with Public Notice. In addition, the owner of the property for which the conditional use is being sought, or his agent, and the property owners within one hundred (100) feet of the proposed conditional use shall be notified by certified mail by the Zoning Administrator. Notice of such hearing shall also be posted on the property for which the conditional use is sought, and at the Henry Clay Municipal Building at least fourteen (14) days prior to the public hearing.
- E. Enforcement, Assurances, and Implementation:
 - 1. In considering any conditional use, township supervisors may prescribe appropriate conditions and safeguards in conformity with the spirit and intent of this Ordinance. Violation of such conditions and safeguards, when made part of the terms under which the conditional use is granted, shall be deemed a violation of this Ordinance with penalties in accordance with Article VII.
 - 2. If township supervisors determines that the application for conditional use meets all requirements of this Ordinance and receives assurances that any additional conditions deemed necessary shall be fulfilled and that the application is in conformity with the spirit and intent of this Ordinance, it shall direct the Zoning Officer to issue a Building Permit and/or an Occupancy Permit for such conditional use.

**ARTICLE XIV
ZONING HEARING BOARD**

SECTION 1401 Creation and Organization:

A. Creation and Membership:

There is hereby established a Zoning Hearing Board. The membership of the Board shall consist of three residents of the municipality appointed by the Township Supervisors. Their terms of office shall be three years and shall be so fixed that the term of office of one member shall expire each year. The Board shall promptly notify the Township Supervisors of any vacancies which occur. Appointments to fill vacancies shall be only for the unexpired portion of the term. Members of the board shall hold no other office in the township. The township supervisors may appoint at least one but not more than three alternative members of the board for a three-year term of office.

B. Removal of Members:

Any board member may be removed for malfeasance, misfeasance or nonfeasance in office or for other just cause by a majority vote of the township supervisors taken after the member has received fifteen 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.

C. Organization:

The board shall elect from its own membership its officers, who shall serve annual terms as such and may succeed themselves. For the conduct of any hearing and the taking of any action, a quorum shall be not less than a majority of all the members of the board but the Board may appoint a hearing officer from its own membership to conduct any hearing on its behalf and the parties may waive further action by the board. The board may make, alter and rescind rules and forms for its procedure, consistent with ordinances of the township and laws of the Commonwealth. The board shall keep full public records of its business and shall submit a report of its activities to the township supervisors as requested by the Supervisors.

If, by reason of absence or disqualification of a member, a quorum is not reached, the chairman of the board shall designate the alternate member to sit on the board to provide a quorum. The alternate member shall continue to serve on the board in all proceedings involving the care for which the alternate was initially appointed until the board has made a final determination of the matter or case.

D. Expenses:

Within the limits of funds appropriated by the township, the board may employ or contract for secretaries, clerks, legal counsel, consultants and other technical and clerical services. Members of the Board may receive compensation for the performance of their duties. Alternate members of the board may receive compensation for the performance of their duties.

In no case shall the compensation paid to board members and alternates exceed the rate of compensation paid to the governing body.

SECTION 1402 Powers and Duties:

The Zoning Hearing Board shall have the exclusive jurisdiction to hear and render final adjudication in accordance with Section 909.1(a) of the Pennsylvania Municipalities Planning Code.

A. Powers Relative to Errors and Appeals:

1. 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 an application therefore, the issuance of any cease and desist order or the registration or refusal to register any non-conforming use, structure, or lot.
2. 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.
3. Appeals from the zoning officer's determination under Section 916.2 of the Pennsylvania Municipalities Planning Code.
4. Appeals from the determination of the zoning officer or municipal engineer in the administration of any land use ordinance or provision thereof with reference to sedimentation and erosion control and storm water management insofar as the same relate to development not involving applications under Article V (Subdivision and Land Development) or Article VII (Planned Residential Development) in the Pennsylvania Municipalities Planning Code.

B. Powers Relative to 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 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 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 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 applicant.
4. That the variance, if authorized, will neither alter the essential character of the neighborhood or district in which the property is located, nor substantially or permanently impair the appropriated use or development of adjacent property, nor be detrimental to the public welfare.
5. That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible of the regulation in issue.

In granting any variance, the Board may attach such reasonable conditions and safeguards as it may deem necessary.

C. Powers Relative to Special Exceptions:

1. In any instance where the board is empowered to consider a request for a special exception, the board should determine that the following guidelines should be met before granting said special exception.
 - a. The size, scope, extent and character of the special exception, variance or use requested is consistent with the Comprehensive Plan of the Township and promotes the harmonious and orderly development of the zoning district involved.
 - b. The proposed changes or modification constitutes an appropriate use consistent with the character and type of development in the area surrounding the location for which the request is made and will not substantially impair, alter or detract from the use of surrounding property or the character of the neighborhood in light of the zoning classification of the area affected; the effect on other properties in the area; the number, extent and scope of nonconforming uses in the area; and the presence or the absence in the neighborhood of conditions or uses which are the same or similar in character to the condition of use for which the applicant seeks approval.
 - c. The proposed use is suitable with respect to traffic and highways in the area and provides for adequate access and off-street parking arrangements in order to protect major streets and highways from undue congestion and hazard.

- d. Major streets and a highway frontage will be developed so as to limit the total number of access points and encourage the frontage of building on parallel marginal roads or on roads perpendicular to the major Street or highway.
 - e. The proposed changes are reasonable in terms of the logical, efficient, and economical extension of public services and facilities, such as public water, sewers, police, fire protection, and public schools, and assure adequate arrangements for sanitation in specific instances.
 - f. All commercial or industrial parking, loading, access or service areas will be adequately illuminated at night while in use.
 - g. Conditions are being imposed on the grant of the request necessary to insure that the general purpose and intent of this zoning ordinance are complying with and that the use of the property adjacent to the area included in the proposed change or modification is adequately safeguarded with respect to harmonious design of buildings, aesthetics, planting and its maintenance as a sight or sound screen, landscaping, hours of operation lighting numbers of persons involved allied activities, ventilation, noise, sanitation, safety, smoke and fume control and the minimizing of noxious, offensive or hazardous elements.
 - h. The proposed change protects and promotes the safety, health, morals and general welfare of the township.
2. Upon appeal, the board shall be empowered to permit the following special exceptions in addition to those otherwise specifically set forth in other parts of the ordinance.
- a. To allow for either of the uses to be accommodated under either of the zoning districts in cases where the boundary line of a district divides a lot of record in single ownership.
 - b. To permit the reconstruction, alteration, extension or enlargement of a non-conforming building as provided in Article IX, Section 903.
 - c. To interpret the provisions of the Zoning Ordinance where the actual street layout on the ground varies from the street layout as shown on the map fixing the several districts, which map is attached to and made a part of this ordinance.
3. In granting a special exception, the board may attach such reasonable conditions and safeguards, in addition to those expressed in this ordinance as the Board may deem necessary.

D. Powers Relative to Zoning Challenges:

1. Substantive challenges to the validity of any land use ordinance, except those brought before the governing body pursuant to Sections 609.1 and 916. 1(a)(2) of the Pennsylvania Municipalities Planning Code (i.e. Landowner Curative Amendments).
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 30 days after the effective date of a said ordinance.

E. Exercise of Powers:

In exercising the above powers, the board may reverse or affirm wholly or partly, or may modify the order, requirement, decision or determination appealed from and such order, requirement, decision or determination as ought to be made and to that end shall have all the powers of the officer from whom the appeal is taken.

In considering all appeals, the board shall, before making any finding in a specific case, first determine that the proposed change will not permit a non-permitted use for the district and will not impair an adequate supply of light and air to increase the danger of fire, or materially diminish or impair established property values within the surrounding area, or in any other respect impair the public health, safety, comfort, morals, and welfare of Henry Clay Township. Every change granted or denied by the Board shall be accompanied by a written finding of fact based on sworn testimony and evidence, specifying the reason for granting or denying the variation. The decision of the board shall be made a part of any building permit in which variations is allowed.

F. Required Action:

The concurring vote of a majority of the members of the board shall be necessary to reverse any order, requirement, decision, or determination of the Zoning Administrator, or to decide in favor of the applicant on any matter upon which it required to pass under this ordinance, or to allow any variation of this ordinance.

G. Appeal from Action of the Board:

Any party before the board or any office or officer of the Township or the Aggrieved may appeal to the Court of Common Pleas. All zoning appeals shall be filed with the Prothonotary not later than thirty (30) days after issuance of the notice of the decision or report of the board. Appellants' procedure shall follow the requirements of the Pennsylvania Municipalities Planning Code, pursuant to Article X.

SECTION 1403 Procedure:

- A. The Board shall hear and decide appeals filed with the board in writing when it is alleged by any person aggrieved or by a proxy of the Aggrieved that the Zoning Officer has failed to follow prescribed procedures or has misinterpreted or misapplied any provision of a valid ordinance or map or any valid rule or regulation governing the action of the Zoning Officer.

- B. The board may also hear all challenges to the validity of the zoning ordinance or map, except those brought before the governing body pursuant to Article IX, Section 908, under the provisions of Section 909.1 (a) of the Pennsylvania Municipalities Planning Code, as specified in Section 1102 of this Ordinance, and shall hear all requests for variances and special exceptions filed with the Board by any landowner or any tenant with the permission of such landowners.

- C. The board shall conduct hearings and make decisions in accordance with the following requirements:
 - 1. Public Notice shall be given to the public, the applicant, the county planning agency, 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 manners as shall be prescribed by ordinance or, in the absence of ordinance provision, by rules of the board. In addition, written notice of said hearing shall be conspicuously posted on the affected tract of land at least one week prior to the hearing.
The township supervisors may prescribe reasonable fees with respect to hearings before the board which may include compensation for the secretary and members of the board, notice and advertising costs, and necessary administrative overhead connected with the hearing. The costs shall not include legal expenses of the board, engineering expenses, fees for architectural or other technical consultants, or expert witness costs.

 - 2. The hearing shall be held within 60 days from the date of the applicant's request, unless the applicant has agreed in writing to an extension of time.

 - 3. The hearing shall be conducted by the board or the board may appoint any member as a hearing officer. The decision, or, where no decision is called for, the findings shall be made by the board, but the parties 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.

 - 4. The parties to the hearing shall be any person who is entitled to notice under clause (1) without special request therefore who has made timely appearance of record before the board and any other person permitted to appear by the board.

5. The chairman or acting chairman of the board or the hearing officer presiding shall have the power to administer oaths and issue subpoenas to compel the attendance of witnesses and the production of relevant documents and papers, including witnesses and documents by the parties.
6. 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.
7. Formal rules of evidence shall not apply, but irrelevant, immaterial, or unduly repetitious evidence may be excluded.
8. The board or the hearing officer, as the case may be, shall keep a stenographic record of the proceedings. The appearance fee for the 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.
9. 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 with any party or his representatives unless all parties are given an opportunity to be present.
10. 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 therefore. Conclusions based on any provisions of this act or of any ordinance, rule or regulation shall contain a reference to the provision relied on and the reasons why the conclusion is deemed appropriate in the light of the facts found. If the hearing is conducted by a hearing officer, and there has been no stipulation that his decision is final, the board shall be entitled to make written representations thereon to the board prior to final decision or entry of findings and the board's decision shall be entered no later than 30 days after the report of the hearing officer. Where the board has power to render the same within the period required by this clause, the decision shall be deemed to have been rendered in favor of the applicant.

11. 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 which the full decision or findings may be examined.

D. Stay of Proceedings:

1. Upon filing any proceeding referred to in Section 913.3 of the Pennsylvania Municipal Planning Code and during its pendency before the board, all land development pursuant to any challenged ordinance, order or approval of the zoning officer or of any agency or body, and all official action thereunder, shall be stayed unless the zoning officer or any other appropriate agency or body certifies to the board facts indicating that such stay would cause imminent perils to life or property, in which case the development or official action shall not be stayed otherwise than by a restraining order, which may be granted by the board or by the court having jurisdiction of zoning appeals, on a petition, after notice to the zoning officer or other appropriate agency or body. When an application for development, preliminary or final, has been duly approved and proceedings designed to reverse or limit the approval are filed with the board by persons other than the applicant, the applicant may petition the court having jurisdiction of zoning appeals to order such persons to post bonds as a condition to continuing the proceedings before the board.
2. After the petition is presented, the court shall hold a hearing to determine if the filing of the appeal is frivolous. At the hearing, evidence may be presented on the merits of the case. It shall be the burden of the applicant for a bond to prove the appeal is frivolous. After consideration of all evidence presented, if the court determines that the appeal is frivolous, it shall grant the petition for a bond. The right to petition the court to order the appellants to post bonds may be waived by the appellee, but such waivers may be revoked by him if an appeal is taken from a final decision of the court.
3. The question whether or not such petitions should be granted and the amount of the bond shall be within the sound discretion of the court. An order denying a petition for bond shall be interlocutory. An order directing the responding party to post a bond shall be interlocutory.
4. The supervisors of the township have reserved the power to rezone any tract or tracts of land having a combination of 25 acres and 1000 feet of road footage by following the advertising requirements of the PAMPC

ARTICLE XV

SECTION 1501 ZONING SCHEDULE

USE		Min. Lot Area	Min. Lot Width	Front Yard	Rear Yard	Side Yard	Max. Lot Cov.	Max. Bldg. Height	Net Density
R-1	1 Family	87,120	200	50	50	25/50	25%	35'	1
R-2	1 Family 2 Family*	87,120 20,000	100 100	50 30	50 30	25/50 10/25	25% 50%	35' 35'	1 1
MU	1 Family	87,120	200	50	50	25/50	50%	35'	1
	2 Family	40,000	100	30	30	10/25	50%	35'	1
	Townhouse	10,000	75	30	30	10/25	50%	35'	
	Garden	5,000							
	Apartments								
	Mobile Home	3,333	75	30	30	10/25	50%	35'	
Commercial	40,000	100	30	30	10/25	50%	35'		
C/LI	Commercial Light Industrial	87,120	200	50	50	50	25%	35'	1
A	Agricultural 1 Household Dwelling Unit	5 Acres	200	100	100	50	10%	35'	1
RC	Recreation & Conservation	40,000	100	50	50	20	50%	35'	1

* Require public infrastructure be installed for higher density

A minimum overall gross acreage of two acres is necessary to develop townhouses on a site. A density bonus may be granted for developments that dedicate affordable housing, open spaces, etc. for those uses that note two net densities.

The maximum percent of paved areas in the Commercial/Light Industrial Flex District is 50%.

ARTICLE XVI

SECTION 1601 ZONING DISTRICT MAP

10697

Section 1602 Effective Date

This ordinance shall become effective five (5) days after the date of final passage.

Duly elected and ordained by the Board of Supervisors of Henry Clay Township, Fayette County, Pennsylvania, this 2 day of June, 1997.

HENRY CLAY TOWNSHIP
BOARD OF SUPERVISORS

ATTEST:

Charlene M. Sarver
Chairman

Margaret Rishel
Secretary

Wayne DeDezman

Charles E. Glover

(SEAL)

June 2, 1997

I, Margaret Rishel do hereby certify that the foregoing is a true copy of an Ordinance adopted by the Board of Supervisors of Henry Clay Township, Fayette County, Pennsylvania, on June 2, ~~1996~~ 1997.

Margaret Rishel
Township Secretary

AMENDMENT TO ZONING ORDINANCE
1 OF 1997

ORD 10/2000

ORDINANCE OF HENRY CLAY TOWNSHIP

An Amendment to the Zoning Section 1302 Regarding Time Deadlines for Building Permits and Section 1303 Regarding Certificates of Use and Occupancy.

SECTION I

WHEREAS, the Township Supervisors recognize the time deadlines of Section 1302 regarding the expiration of a building permit create unnecessary burdens and excess costs upon residents, particularly residents acting as their own contractors in building construction, renovation and/or additions. In order to facilitate new construction or renovations and/or additions to existing structures, Section 1302 B is amended as follows:

B. EXPIRATION OF BUILDING PERMIT:

Building permits shall expire in one (1) year from issuance if the work described has not begun.

- (1) For purposes of this section work will be deemed to have begun if ground has been broken and/or a footer has been poured and or grade stakes and/or corner stakes have been set marking the location of the construction, renovation and/or addition.
- (2) Once work has begun, the permit shall be valid for a period of five (5) years from the date of issuance.
- (3) Retroactivity: this amendment is retroactive to any building permit issued in the last five (5) years including permits issued under any previous zoning ordinance and amendments thereto conditioned upon the use being consistent with the use provisions of Ordinance 1 of 1997 as amended. This retroactivity provision applies to any sewage permit, grandfathered sewage use or exclusion from permitting.

SECTION II

CERTIFICATE OF USE AND OCCUPANCY

Section 1303 (B)(1) of the Ordinance is amended to add any township authorized municipal building inspector as a person who may issue an occupancy permit.

Section 1303 (C) added to reflect the township's desire not to impede or prevent occupancy of a structure which was constructed or altered in conformity with this ordinance.

Section 1303 (D) is added to limit township liability exposure resulting from state and/or federal statues and regulations promulgated there under which may be in conflict with the zoning ordinance regulations and policies promulgated thereunder.

Section 1303 is amended as follows:

B. Issuance of Certificate of Use and Occupancy:

- (1) The zoning Officer or any Township Authorized Building Inspector shall inspect any structure, building, sign, and/or land or portions thereof and shall determine the conformity therewith. If he/she is satisfied that the completed work is in conformity with this Ordinance and with the work listed in the Building Permit, he/she shall issue a Certificate of Use and Occupancy.
- (C) Any building, renovation or addition which was in conformity with this ordinance and any applicable state or federal law or regulation at the time its construction was commenced under a bonafide building permit shall not be denied an occupancy permit by the township based upon changes in any state, federal or local law or regulation at the time of completion of said structure if same was completed in the time frame set forth in amendments to section 1302.
- (D) Validity of a township certificate of occupancy: A township issued occupancy permit shall only reflect compliance with this ordinance and does not purport to authorize occupancy of a structure under any state in federal law or regulation. Owners and/or occupants of any structure are required to secure such permits as may be required from state or federal agency(ies) directly from said agency(ies).

ENACTED AND ORDAINED

By the Supervisors of Henry Clay Township,
Fayette County, Pennsylvania

this 3 day of July, 2000

Clarence M. Sarver
Clarence M. Sarver

Eugene Glover
Eugene Glover

Gary Rishel
Gary Rishel

Attest:

Margaret Rishel, sec.
Margaret Rishel, Secretary

ORDINANCE 2000 - 2

OMNIBUS CURATIVE AMENDMENT ORDINANCE

AN ORDINANCE TO REPEAL OUTDATED AND CONFLICTING ORDINANCES AND TO ESTABLISH BOTH CIVIL AND CRIMINAL PENALTIES FOR VIOLATIONS CONSISTENT WITH THE SECOND CLASS TOWNSHIP CODE.

Be it Ordained and Enacted by the Board of Supervisors of Henry Clay Township That the Ordinances in Section I Are Repealed as Outdated, Partially or Totally in Conflict with Other Ordinances and/or Statues. The Ordinances in Section II, Relating to Penalties and Enforcement, Are Amended to Provide the Township with the Greatest Flexibility to Encourage Voluntary Compliance with the Ordinances of this Township and to Provide Appropriate Penalties to Dissuade Persons from Violating the Ordinances of this Township.

SECTION I

The following Ordinances are Repealed:

68-3	Chestnut Ridge Joint Planning Commission ✓
71-2	Mercantile Tax
71-11	Old Cable Television Ordinance
78-2	10 Acre Rubbish Dumps
79-2	Old Zoning Ordinance Amendment
84-1	Flood Plain Ordinance
85-4	Amend Old Zoning Ordinance
87-5	Flood Plain Amendment
92-10	(Repeal Section 10 Only Relating to Sewage Systems On Ten Acre Parcels)
92-12	Old Trash Ordinance
93-1	Amendment Old Zoning Ordinance
96-1	Old Omnibus Amendment

SECTION II

The Penalties and/or Enforcement Sections of the Following Ordinances Are Amended as Indicated in Sections A & B.

69-1	Earned Income Tax
71-1	Occupational Privilege Tax
74-1	Permit, Public Road Disturbance
77-1	Parking Obstructing Township Roads
83-3	Holding Tank Ordinance
88-2	Peddlers & Hucksters
92-13	Township Road Driveway Ordinance
95-1	New Trash Ordinance
97-1	New Zoning
99-1	Amendment New Zoning
92-14	Open Container - Alcohol
88-1	Cable Television Ordinance

PENALTIES FOR VIOLATION

A. CRIMINAL PENALTIES

- (1) A fine of \$300.00 to \$600.00 per day for each day of violation.
- (2) Restitution of any sums due and owing to the Township for failure to pay any fee cost or assessment set forth in the Ordinance.
- (3) Actual costs of prosecution which at minimum shall include the hourly fee of any enforcement officer. The costs associated with the production of any witness and any legal fees associated with prosecution.
- (4) Prosecution shall be instituted via a non-traffic citation or criminal complaint.

B. CIVIL PENALTIES

- (1) In addition to, or instead of, the criminal penalties in section (A) the Township shall have the authority to file a civil action in any court seeking:
 - (a) A civil fine of up to \$600 per day.
 - (b) An injunction to stop the prohibited activity.
 - (c) An order authorizing the physical actions needed to abate any violation of the ordinance.
 - (d) Recover financial damages for any failure to pay fees, costs or assessments provided by any ordinance.
 - (e) Recover interest at a rate calculated by the delay damages section of the Pa rules of Civil Procedure currently propagated at Pa RCP 238. Said rule determines the interest rate for monies owing an any given year. The remainder of the language of Rule 238 has no application to this section except that Township shall have the right to invoke Rule 238 damages after verdict or other decision of any court.
 - (f) Recover the costs of any Township employee agent, contractor or attorney utilized in enforcement of the ordinance.
 - (g) Recover all costs of filing, service advertising, witness fees, copying photography, duplication or any costs incurred by the Township to prosecute the actions.
 - (h) Prosecution shall be via filing of a civil action in a court of appropriate jurisdiction.

C. TIME FOR CALCULATION OF COSTS OF PROSECUTION

Under Either Civil and/or Criminal Penalties, Aforementioned after a Finding of Guilt upon a Citation or of Liability in a Civil Action the Township Shall Have a Period of Ten Working Days to Provide the Appropriate Court with a Calculation of Actual Costs.

ORDAINED AND ENACTED
By the Supervisors of Henry Clay Township,
Fayette County, Pennsylvania
This 3 Day of July, 2000

Clarence M Sarver
Clarence M. Sarver

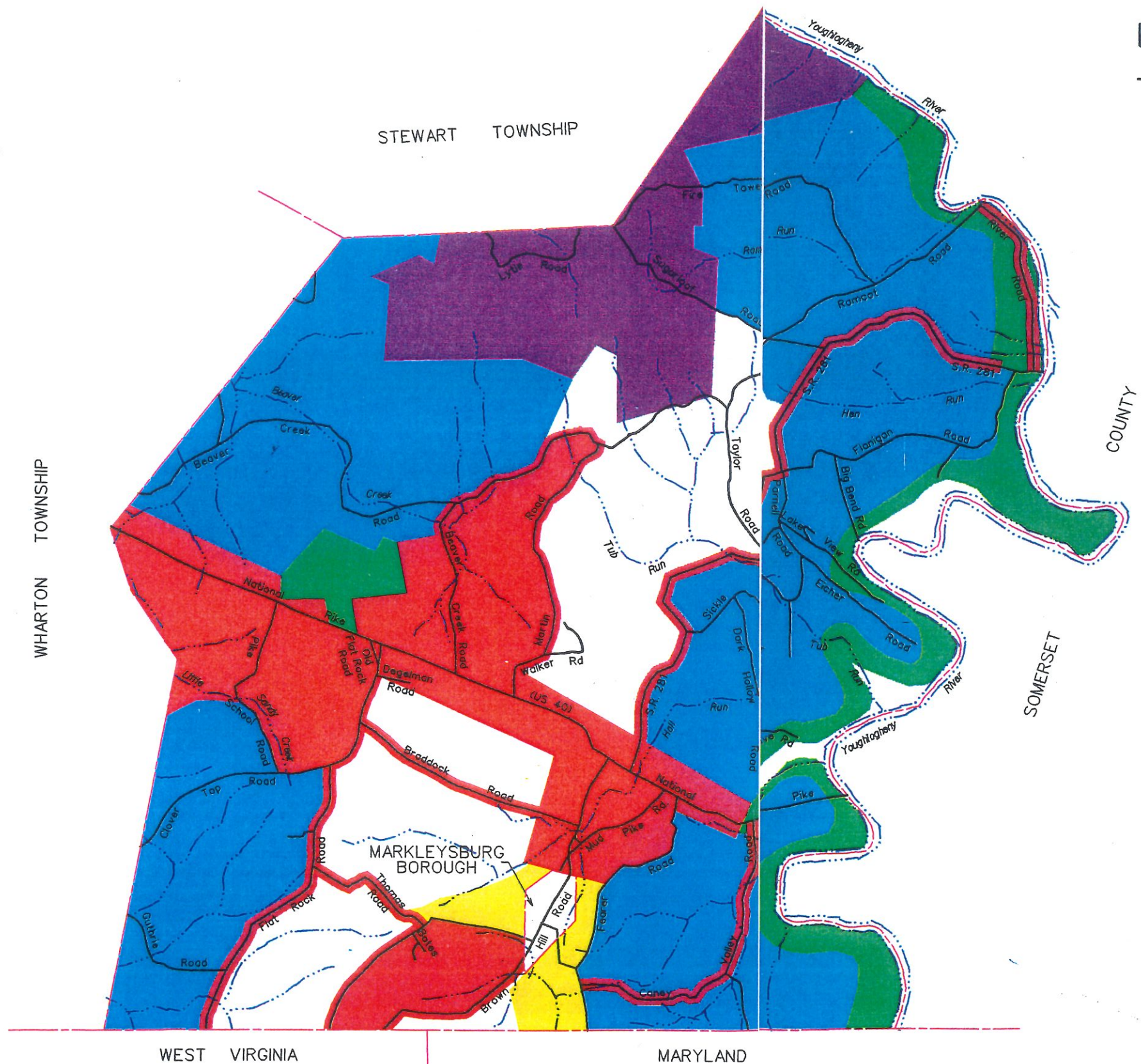
Eugene Glover
Eugene Glover

Gary Rishel
Gary Rishel

Attest:

Margaret Rishel sec
Margaret Rishel, Secretary

DGN/5793/BASE

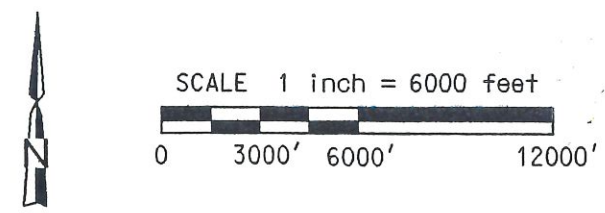


LEGEND

- MIXED USE DISTRICT (MU)
- MEDIUM DENSITY RESIDENTIAL (R-2)
- LOW DENSITY RESIDENTIAL (R-1)
- CONSERVATION/RECREATION (CR)
- COMMERCIAL FLEX DISTRICT (C)
- AGRICULTURAL/LOW DENSITY RESIDENTIAL DISTRICT (AR)

NOTE:
 This project was financed (in part) by a grant from the Federal Department of Housing and Urban Development under the administration of the COMMONWEALTH OF PENNSYLVANIA, DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT.

Henry Clay Township Board of Supervisors
 MACKIN ENGINEERING COMPANY
 RIDC PARK WEST
 117 INDUSTRY DRIVE
 PITTSBURGH, PA. 15275
 Henry Clay Township Planning Commission



COMPREHENSIVE PLAN
 for
HENRY CLAY TOWNSHIP
 Fayette County, PA

MAP 4
 FUTURE ZONING MAP
 Spring/Summer 1996