

# **ZONING ORDINANCE**

**TINICUM TOWNSHIP**  
**Delaware County, Pennsylvania**

**DECEMBER 2020**



**ZONING ORDINANCE**  
**OF**  
**TINICUM TOWNSHIP**

**Prepared by the Delaware County Planning Department**

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## **ACKNOWLEDGEMENTS**

The Delaware County Planning Department greatly appreciates the assistance given by the Tincum Township Zoning Ordinance Revision Task Force in the preparation of this document.

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**TOWNSHIP OF TINICUM**  
**COUNTY OF DELAWARE**  
**COMMONWEALTH OF PENNSYLVANIA**

**Resolution No. \_\_\_\_\_**

WHEREAS, the Township Commissioners of the Township of Tincum determined that the best interests of the Township would be served by the revision of the existing Township Zoning Ordinance of \_\_\_\_\_ (year); and

WHEREAS, a Zoning Ordinance has been prepared by the Delaware County Planning Department in conjunction with a Task Force of elected officials and appointed officials of the Township; and

WHEREAS, a public hearing was held on the zoning ordinance on \_\_\_\_\_ 2020 pursuant to public notice; and

WHEREAS, no substantial revisions resulted from the public hearing on \_\_\_\_\_ 2020;

NOW BE IT RESOLVED that the Commissioners of the Township of Tincum hereby approve and adopt the Zoning Ordinance for the Township of Tincum titled Zoning Ordinance for Tincum Township, 2020 and declaring that the aforesaid Zoning Ordinance shall henceforth constitute the Zoning Ordinance under and in accordance with Article VI of the Pennsylvania Municipalities Planning Code, as amended.

RESOLVED this \_\_\_\_\_ day of \_\_\_\_\_ month, 2020.  
TOWNSHIP OF TINICUM

By: \_\_\_\_\_  
Patrick K. McCarthy, President, Board of Commissioners

Attest: \_\_\_\_\_  
David D. Schrieber, Township Manager / Secretary

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## **ARTICLE 1:**

### **PURPOSE, DISTRICTS AND ADMINISTRATION**

#### **100. Title**

This Ordinance shall be known and may be cited as the Tinicum Township Zoning Ordinance of 2020.

#### **101. Purposes**

The zoning regulations and districts set forth in this Ordinance are designed to achieve the following purposes as stated in the Pennsylvania Municipalities Planning Code Act 247 of 1968, as amended:

1. To promote, protect, and facilitate any or all of the following: the public health, safety, morals and the general welfare, coordinated and practical community development and proper density of population, guidance, protection and improvement of amenity, future governmental processes and functions, guidance of uses of land and structures, types and location of streets, roadways public grounds and facilities, the provision of adequate light, water and air, access to incidental solar energy, police and fire protection, transportation, sewerage and schools and preservation of the natural, scenic and historic values in the environment.
2. To prevent one or more of the following: overcrowding of land, blight, danger and congestion in travel and transportation; loss of health, life or property from fire, flood, panic or other dangers.
3. To provide the use of land within the Township for residential housing of various dwelling types and a reasonable range of multi-family dwellings in various arrangements.
4. To accommodate reasonable overall community growth, including population and employment and opportunities for development of a variety of residential dwelling types and nonresidential uses.

#### **102. Community Development Objectives**

The zoning regulations and districts set forth in this Ordinance are based on the goals and objectives that are stated in the Community Development Objectives of 2009 listed below:

The Community Development Objectives (CDOs) previously developed below are intended and designed to guide and set the direction for future Township policies and the content and provisions of this zoning ordinance.

1. Overall Community

Maintain the Township as an attractive and stable community that is pedestrian

friendly, contains distinct and compact neighborhoods, a variety of housing types, commercial, light industrial and other non-residential establishments.

2. Residential Land Use

- a. Provide for and encourage a variety of residential uses including single-family detached, twins, townhouses and apartments.
- b. Ensure blight free neighborhoods by protecting residential areas from physical deterioration by implementation of property maintenance ordinances and improving inspection and code enforcement programs and procedures.
- c. Encourage preservation of residential neighborhoods and discourage erosion of residential character by limiting and regulating boarding and rooming houses, and regulating home occupations, residential conversions, inappropriate signs, fences and similar uses and structures.
- d. Prevent widespread high population density and the accompanying traffic congestion, parking problems, and undue pressure on schools, recreation, public safety and other community facilities and services by limiting locations for multifamily and row housing.
- e. Allow higher density development in the form of apartments and townhouses in vicinity of public transit and major shopping areas.

3. Commercial Land Use

- a. Provide for and encourage shopping in a centralized area that offers a wide variety of commercial, retail, service, restaurant and other pedestrian-oriented uses along Governor Printz Boulevard (Route 291), east of Wanamaker Avenue (Route 420).
- b. Provide for large motels/hotels and related automobile-oriented uses along Governor Printz Boulevard, west of Wanamaker Avenue.
- c. Prohibit the additional spread of auto collision shops and similar auto-related uses along Route 291.
- d. Investigate the establishment of a Main Street Program as well as the related improvements in facades, streetscaping, parking, and reuse of identified structures along both the Essington and Lester sections of Route 291, as recommended in Project #14, Tincum Main Street Revitalization, Planning Area 3 of the County Revitalization Program (formerly Renaissance program).
- e. Maintain the existing planned office park, hotels, and similar office/flex uses along Route 291 near the Philadelphia International Airport and maintain a variety of airport related uses adjacent to and in vicinity of the

Airport.

- f. Explore the enactment of a Local Economic Revitalization Tax Abatement Act (LERTA) and its application to designated, deteriorating commercial and industrial properties. This would encourage redevelopment by exempting the tax on the improvements to properties in the designated area.
- g. Given the large number of ground level parking areas throughout the Township intended to serve the Airport, prohibit additional ground level parking lots and require that additional parking be in form of parking garages not less than three or four levels in height, in order to limit the land consumption by such at grade airport-related parking lots.
- h. Maintain the planned office area in the C-3 district as a prime office location.

4. Industrial Land Use

- a. Maintain the Tincum Business Park in good condition through diligent code enforcement and encourage owners/tenants to comply with zoning and other applicable ordinances and take measures to improve the appearance of properties and buildings.
- b. As recommended by the Delaware County Revitalization Program Area 3 Action Plan of 2003, an overall development/redevelopment plan for the Tincum Industrial Park (TIP) should be considered.
- c. Locate industrial uses with the highest impacts in areas zoned Heavy Industrial located generally in the more remote areas of the Township so that their impacts do not negatively affect residential and other areas most susceptible to impacts from heavy industry.

5. Waterfront

- a. Utilize the central and western portion of the Delaware River waterfront in Tincum for a variety of water-dependent and water-related uses, including marinas, restaurants, retail stores, parks, as well as office buildings and apartments.
- b. Prepare zoning regulations that limit the size of commercial uses permitted along the waterfront.
- c. Provide regulations that require or reward owners of waterfront property to provide pedestrian access ways through their properties to the Delaware River
- d. Identify view sheds and require preservation of identified views of the River and Darby Creek.

- e. Offer incentives for reuse of historic buildings along the waterfront.
  - f. Preserve the John Heinz Wildlife Refuge at Tinicum, Little Tinicum Island and other designated areas generally in their natural state by prohibiting building there, except for buildings related to the environment.
6. Housing
- a. Maintain existing housing stock and properties so as to prevent deterioration of dwellings and decline of neighborhoods through a vigorous program of code enforcement.
  - b. Improve the Township's housing stock by repairing or removing substandard residential structures and providing new infill housing in selected areas.
  - c. Protect residential properties from the impacts of traffic, noise, and adjacent or nearby industrial and other high impact uses by regulating permitted uses, landscaping and screening, setback requirements and other control measures.
  - d. Maintain the current owner-renter ratio by controlling the increase in the percentage of new rental units in comparison to owner-occupied dwellings, by initiating marketing efforts and programs to encourage homeownership. Explore opportunities in the County Home Ownership First Program and promote the Township as an attractive community for first-time buyers.
  - e. Monitor Section 8 rental units by regular communication with the Delaware County Housing Authority and control existing Section 8 units by requiring housing education (for tenants) and regular inspection of properties (for owners). Strive to maintain number of Section 8 units close to existing low number.
7. Community Facilities
- a. Ensure that adequate staffing levels are maintained for the existing municipal building and police station and actively recruit volunteers for the fire department.
  - b. Provide opportunities for technological upgrades and purchases for all EMS personnel.
  - c. Provide more avenues for police and fire personnel interaction with the public, especially the schools, youth recreation activities and senior citizens.

8. Zoning

- a. Separate existing Residence district into several distinct residential districts allowing different residential uses at different densities.
- b. Create a new C-1 district that would allow and control a variety of retail, service, restaurant and similar mostly pedestrian-oriented uses on small lots (5,000 square feet) along Governor Printz Boulevard, east of Wanamaker Avenue.
- c. Create a new C-2 district that would allow and control large commercial uses such as hotels, offices and restaurants on lots of about 2 acres to serve local and nearby residents, Airport users, and transient customers. This district should be located along Governor Printz Boulevard, west of Wanamaker Avenue.
- d. Create a Waterfront district designed to utilize the unique characteristics and opportunities provided by a location on the Delaware River. Provisions of the district should also allow and preserve historical, cultural, recreational, environmental and tourist-related facilities. The district should also prohibit large-scale commercial establishments and encourage smaller, more pedestrian-oriented stores and shops.
- e. Provide limitations on home occupations and professional offices in order to prevent these facilities from imparting negative impacts on residential areas, such as auto repair home businesses in residential areas.
- f. Where needed, amend zoning ordinance to comply with Delaware County Revitalization program.

9. Transportation

- a. Assure that traffic lights along major roads are synchronized, in order to facilitate the free flow of traffic and prevent an increase in congestion, particularly along intersections and main roads.
- b. Employ “traffic calming” measures for slowing traffic on through streets by means of one-way streets, high visibility crosswalks, raised crosswalks, reduced speed limit signs, bike lanes, narrowed traffic lanes, roundabouts, speed humps, and many similar techniques.
- c. Consider establishment of on-road bike lanes along Governor Printz Boulevard and possibly Wanamaker Avenue, Second Street and Tinicum Island Road.
- d. Investigate possibility of off-road multi-purpose trails, possibly along creek valleys or in vicinity of John Heinz Wildlife Refuge, as well as the connection of these facilities to other trails to accomplish meaningful

recreation/transportation linkages.

- e. Cooperate and participate in efforts to extend the East Coast Greenway through Tinicum. The ECG is a multi-use trail for walkers, bikers and other users that is planned to extend along the east coast from Maine to Florida.
- f. Provide sidewalks where none exist, require sidewalks in new developments and where feasible, provide walking/jogging trails in Township parks.
- g. Review traffic signs to determine whether they are clear, in proper locations and in good condition. Identify areas/intersections that need “no through traffic” and “local traffic only” or similar signs to protect residential areas from “cut through” traffic.
- h. Review bus routes periodically, with the purpose of providing best possible service for Township riders.
- i. Review adequacy of bus shelters and arrange to have new ones erected where needed.
- j. Advise residents of paratransit services offered by Community Transit of Delaware County (CTDC), in view of the significant percentage of elderly population in the Tinicum.

10. Environment

- a. Continue policy of carefully regulating construction on or near environmentally sensitive areas such as wetlands, floodplains or areas in proximity to the John Heinz Wildlife Refuge.
- b. Pursue funding for repair and replacement of storm water system components as need arises.
- c. Support the periodic dredging of the Delaware River *back channel* to promote recreational uses and foster the viability of commercial uses in the Township.

11. Parks and Recreation

- a. Review the recreational programs and activities for all ages and institute additional and/or different activities where needed to serve all age groups.
- b. Prepare a township-wide park, recreation, and open space plan to assess the condition and adequacy of existing recreational areas and facilities, identify future open space and recreation needs, evaluate areas for environmental protection, and recommend additional facilities and programs to serve the needs of Township residents. Consideration should be given to related

planning efforts and on-going recreation planning initiatives such as the Darby Creek Greenway Plan, the Heinz Refuge Access Study, the Delaware County Route 291/13 Heritage Parkway Study, installation of the East Coast Greenway, and similar recreation planning efforts.

- c. Identify small, vacant or underutilized lots and select those deemed suitable for development as pocket parks, neighborhood playgrounds or neighborhood gardens.
- d. Coordinate with officials of Interboro School District for community use of District-owned playing fields to supplement the active recreation areas in the Township.
- e. Organize a citizens' association or committee consisting of local officials and residents to identify need for recreational programs, activities and events for all age groups.

12. Intergovernmental Cooperation

- a. Approach common problems with area municipalities on roadway corridor basis (e.g. Route 420), watershed basis or similar approach. Savings can often be attained in purchase of equipment or provision of services by employing a regional, cooperative approach.
- b. Continue to participate in the Delaware County Coastal Zone Task Force and related state and regional committees as opportunities arise.
- c. Implement the recommendations of the Industrial Corridor Design study by adopting the proposed Corridor Overlay District designed to allow greater variety of modern/high tech uses along the waterfront.

13. Delaware County Industrial Heritage Parkway Route 291/13 Beautification and Greenway Plan Implementation

- a. Incorporate the recommendations of the Delaware County Route 291/13 Industrial Heritage Parkway and Greenway Landscaping and Signage Guidelines into local codes.
- b. Install streetscape improvements and directional signage consistent with the Landscape and Signage Guidelines
- c. Install elements of the East Coast Greenway Bikeway and the Tinicum - Fort Mifflin Trail as funding becomes available.

14. Energy Conservation

- a. Develop policies and ordinances to encourage and/or require energy conservation and waste reduction measures for private new construction,

large expansions, additions or redevelopment, construction or expansion of Township buildings or facilities, and Township purchasing.

- b. Institute measures such as replacing lights in Township facilities with long-lasting, energy saving lights, review insulation levels and upgrade as needed, inspect heating and cooling systems and upgrade as needed, consider purchase of hybrid vehicles, etc.
- c. Encourage existing and proposed businesses and industries in the Township to adopt energy conservation measures and encourage them to introduce LEED (Leadership in Energy and Environmental Design) or Energy Star measures for energy conservation.

15. Prohibition of Aircraft

- a. Consistent with the Overall Community objective as noted in Section 102.1 above, it is the intent of the Board of Commissioners of Tincum Township to protect residential neighborhoods and other areas of the Township from the intrusion of aircraft or airport dependent uses. To that end, this ordinance specifically prohibits the presence of aircraft in several zoning districts. Except for seaplanes, aircraft shall only be permitted by conditional use in the SU-Special Use District or where elsewhere specified, by conditional use.

**103. Establishment of Districts**

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

R -1	Residential
R- 1A	Residential
R-2	Residential
R-3	Residential
C-1	Commercial
C-2	Commercial
C-3	Planned Commercial Office
C-4	Commercial-Industrial
C-4A	Commercial-Industrial
I-B	Industrial Business
H	Heavy Industrial
IHCO	Industrial Heritage Corridor Overlay
W-1	Waterfront

W-1A	Waterfront
W-2	Waterfront
OR	Outdoor Recreational
SU	Special Use

**104. Establishment of Controls**

1. Minimum and Uniform Regulations

Unless specifically indicated otherwise, the regulations set forth in this Ordinance shall be minimum regulations and shall apply uniformly to each class or kind of structures or land.

2. Existing Uses and Structures

In all districts, after the effective date of this Ordinance, any lawfully existing use, building or other structure or any tract of land which is not in conformity with the regulation of the district in which it is located shall be deemed to be nonconforming and subject to the regulations of this Ordinance.

3. Proposed Uses and Structures

In all zoning districts, after the effective date of this Ordinance, any new buildings or other structure or any tract of land shall be constructed, developed, and used only in accordance with the regulations specified herein, except where a variance has been authorized by the zoning hearing board in accordance with Article 26.

**105. Zoning Map, District Boundary Lines, and Tolerances**

1. The zoning district locations and boundaries are those that exist on the legally adopted official zoning map, a copy of which is attached hereto and made a part of this Zoning Ordinance. The original zoning map shall be kept on file in the office of the Township Manager. Whenever changes are made in the boundaries or other matters included on the said zoning map, the Township Engineer shall make such changes in the map within five days after the amendment has been approved by the Township Commissioners.

2. Where possible, the boundaries between districts shall follow natural or man-made features and lines. Unless otherwise indicated, boundaries shall be the centerline or extension of the centerline of a street, alley, or highway; railroad rights-of-way, streams, or other natural or man-made features that can form logical boundaries to districts.

3. Where a district boundary line divides a lot held in a single and separate ownership on the effective day of this Ordinance, the regulations of the less restricted district shall extend over the portion of the more restricted district a distance of not more than 50 feet from the district boundary.

4. Boundaries indicated as appearing to follow platted lot lines shall be construed as following such lot lines. The scale of the map shall determine distances not specifically indicated on the Official Zoning Map. In any other circumstances not covered or in the event of any uncertainty as to the boundary of any district, the Zoning Hearing Board shall interpret the district boundary or boundaries.
5. The boundaries of the W-1, W-1A, W-2, SU and H districts that abut the Delaware River, shall extend 500 feet from the mean low water mark into the Delaware River.

#### **106. Interpretation**

1. In the interpretation and application of the provisions of this Ordinance, the said provisions shall be held to be the minimum requirements for the promotion and the protection of the public health, welfare and safety. Where the provisions of this Ordinance impose greater restrictions than those of any other ordinance or regulation, the provisions of this Ordinance shall be controlling. Where the provisions of any statute or other ordinance or regulation impose greater restrictions, the provisions of such other statute, ordinance or regulation shall be controlling.
2. In interpreting the language of this Ordinance to determine the extent of restriction on the use of the property, the language shall be interpreted, where doubt exists as to the intended meaning of the language, in favor of the property owner and against any implied extension of the restriction.

#### **107. Severability**

1. If any article, section, subsection, paragraph, clause or provisions of this Ordinance shall be declared invalid by a court of competent jurisdiction, such decision shall not affect the validity of this Ordinance as a whole of any other part.

#### **108. Repealer**

The existing zoning regulations as amended are hereby repealed.

#### **109. Effective Date**

This Ordinance shall become effective immediately upon final enactment.

#### **110. Adoption**

Enacted and ordained **this \_\_\_\_\_ day of \_\_\_\_\_, 2021**

## **ARTICLE 2:**

### **DEFINITIONS**

#### **200. Interpretation of Language**

Unless otherwise expressly stated, the following words and phrases shall be construed throughout this Ordinance to have the meaning indicated herein. Words used in the present tense include the future. The singular shall include the plural, and the plural shall include the singular. The word "building" includes the word "structure". The phrase "used for" includes "arranged for", "designed for", "intended for", "maintained for", or "occupied for". The word "person" includes an individual, corporation, partnership, incorporated association or any other similar entity. The words "includes" or "including" shall not limit the term to the specified examples but are intended to extend their meaning to all other instances of like kind and character. The words "shall" and "will" are mandatory and not discretionary, and the word "may" is permissive. Terms not defined herein shall have the meaning customarily assigned to them.

#### **201. Definition of Terms**

In this Ordinance, words, terms and phrases shall have the following meanings:

##### **ACCESSORY STRUCTURE**

A structure detached from a principal building on the same lot and 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 to the principal use of the land or building and located on the same lot with such principal use.

##### **ADULT ENTERTAINMENT**

Live or non-live entertainment containing specified sexual activities or displaying or presenting specified anatomical areas. This definition is a broad overall definition which includes the activities and uses of an adult cabaret, adult dance hall, adult club, adult bar, adult tavern, adult materials sales, adult mini-motion-picture theater, adult motion picture theater, peep shows and sexual encounter center, all as part of its definition for adult entertainment. See also Article 19-A for additional related definitions.

##### **AIRCRAFT**

Any machine supported for flight in the air by dynamic action of air on its surfaces including airplanes, helicopters and similar craft.

##### **AIRPORT**

Philadelphia International Airport or any area of land or water which is used, or intended to be used, for the landing and takeoff of aircraft and any appurtenant areas which are used, or intended to be used, for airport buildings or air navigation facilities or rights-of-way, together with all airport buildings and facilities thereon. As used herein, the term "Airport" includes public airports but excludes private airports and heliports.

#### AIRPORT ELEVATION

Current elevation at Philadelphia International Airport is 36 feet as measured by the North American Vertical Datum of 1988, as amended, the highest point of an airport's usable landing area measured in feet above sea level.

#### AIRPORT HAZARD

Any structure or object, natural or manmade, or use of land which obstructs the airspace required for flight or aircraft in landing or taking off at an airport or is otherwise hazardous as defined by "Airport Hazard" in 74 Pa. Cons. Stat. §5102.

#### AIRPORT HAZARD AREA

Any area of land or water upon which an airport hazard might be established if not prevented as provided for in this Ordinance and the Act 164 of 1984 (Pennsylvania Laws Relating to Aviation).

#### AIRPORT DEPENDENT USE

A use that requires the presence of an airport in the vicinity of the use and/or performs operations that maintain, repair and support aircraft or airport operations. Examples of these uses are aircraft maintenance and repair, aircraft deicing facilities, cargo transfer facilities and similar uses directly dependent on or closely connected to aircraft or airport operations.

#### AIR FREIGHT

A commercial or governmental establishment dealing with the handling, packing, re-packing, transfer, or conveyance of packages or materials transported by aircraft.

#### AIRPORT HAZARD SURFACE ZONES

All these zones as applied to the Philadelphia International Airport are defined in Article 19-A, AP Airport Hazard Overlay district.

#### AIRPORT PARKING LOT OR GARAGE

A parking facility that provides parking of motor vehicles predominantly for customers using the passenger transport service of the airport.

#### AIRPORT RELATED USE

A use that has some connection or relationship to the uses and activities normally carried on at airports. These uses, although related to airport activities, do not need to be located in the immediate vicinity of the airport.

#### ALTERATION

A change or rearrangement of the supporting members of an existing building or an enlargement of a building or structure.

#### APARTMENT BUILDING

A structure containing three (3) or more apartment units.

#### APARTMENT UNIT

One (1) or more rooms with private bath and kitchen facilities comprising an independent, self-

contained dwelling unit in a building.

#### **AUTO BODY OR COLLISION SHOP**

An establishment engaged in the repair of the exterior or "body" of automobiles.

#### **BASEMENT**

An enclosed area partly or completely below grade. A basement shall be considered a story for the purpose of height measurement if the basement ceiling is five (5) feet or more above the average grade level around the building.

#### **BED AND BREAKFAST INN**

Overnight accommodation and a morning meal in a dwelling unit provided to transients for compensation. The facility shall not operate more than twelve (12) lodging rooms.

#### **BILLBOARD**

A sign which 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.

#### **BOARDING HOUSE**

A building arranged for use for lodging, with or without meals, not occupied as a single-family unit.

#### **BUFFER**

A strip of land adjacent to the boundary line intended to separate one use or district from another by providing an open, unobstructed space intended to absorb, shield or block noise, light, view or other impacts of the use having the greater impact. Buffers shall be planted with grass or other ground cover and may be part of the required yards. Buffers are usually employed between a residential district and abutting non-residential districts having greater impacts. There shall be no structures, equipment, storage, parking or trash disposal in buffer areas. Dimensions of buffers shall be as required by the zoning district.

#### **BUILDING**

Any structure used or intended for supporting or sheltering any use or occupancy.

#### **BUILDING COVERAGE**

The ratio obtained by dividing the ground floor of all principal and accessory buildings on a lot by the total area of the lot upon which buildings are located.

#### **BUILDING HEIGHT**

The vertical distance measured from the average level of the ground surrounding the structure to the top of the highest point of the roof for flat roofs and to the ridge of sloped roofs. Chimneys, spires, towers, mechanical equipment, penthouses, tanks, antennas and similar projections of the buildings not intended for human occupancy shall not be included in calculating the height.

#### **BUILDING LINE**

A line parallel to the street right-of-way line which establishes the actual location of the front wall of the principal building on the lot.

#### **BUILDING SETBACK LINE**

A line parallel to the street right-of-way line at a distance that is equal to the depth of the front yard required for the district in which the lot is located.

#### **BUSINESS OR INDUSTRIAL PARK**

A large tract of land that has been planned, developed and operated as an integrated facility for a number of businesses or industrial establishments, with special attention to circulation, parking, aesthetics and compatibility.

#### **CAFETERIA**

A restaurant designed so that customers carry their meals from a counter to their tables.

#### **CERTIFICATE OF OCCUPANCY**

A statement signed by the Code Enforcement Officer setting forth that the use of a building or structure legally complies with the applicable codes and regulations and that the same may be used for the purposes stated therein.

#### **CHILD DAY-CARE CENTER**

A child daycare-facility in which seven or more children who are not related to the operator receive childcare. A child day care center must have a certificate of compliance ("license") from the state Department of Public Welfare in order to legally operate.

#### **CODE ENFORCEMENT OFFICER**

Any person specifically designated as such by the Tincum Township Board of Commissioners to enforce this Ordinance and other codes, ordinances and regulations of the Township.

#### **COMMUNICATIONS ANTENNA**

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

#### **COMMUNICATIONS EQUIPMENT BUILDING**

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

#### COMMUNICATIONS TOWER

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

#### COMMUNITY RESIDENCE FACILITY, FAMILY-BASED

A dwelling, licensed by the Department of Public Welfare, shared by persons requiring special care and their supervisors who live together as a single housekeeping unit in a family-like environment. This facility is designed to create a residential environment for the developmentally disabled, handicapped or similar groups unable to live without supervision. The maximum number of residents in a facility shall not exceed three (3) which is the maximum number of unrelated persons permitted in a "family". These facilities shall not be used to accommodate persons recovering from the effects of drugs or alcohol or inmates of penal institutions.

#### CONDITIONAL USE

A use specifically listed within this Ordinance pursuant to Article VI of the Municipalities Planning Code and the applicable provisions of Article 21 of this Ordinance.

#### CONFERENCE CENTER

A facility used for conferences, seminars, and similar events, with accommodations for sleeping, food preparation/service and eating. The center may include a banquet facility, recreation, entertainment, meeting rooms, fitness and health facilities, retail stores, personal service such as beauty and barbershops, and similar uses customarily included in conference centers.

#### CONVERSION

A change in the use of a building: for example, the change of a single-family dwelling into a two-family dwelling or the change of a retail use to office uses. Such change may be accomplished without subdivision or the introduction of a new owner. Where the use and dimensional regulations of this Ordinance permit, such conversion may be accomplished by appropriate alteration upon the issuance of the necessary permits.

#### DENSITY

Unless otherwise stipulated in this Ordinance, the term "density " shall mean the maximum number of dwelling units per gross acre.

#### DEVELOPER

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

#### DEVELOPMENT

Any man-made change to improved or unimproved real estate, including but not limited to, buildings or other structures, streets and other paving, utilities, dredging, filling, grading, excavation or drilling operations and the subdivision of land.

#### DWELLING

Any building or structure, except, temporary housing, which is wholly or partly used or intended to be used or available for use or available to be used for living or sleeping by human occupants.

#### DWELLING, SINGLE-FAMILY ATTACHED (TOWN/ROW HOUSE)

A single-family dwelling unit within a building which unit has at least one (1) party wall in common with other dwelling units in the same row; a townhouse or row house. After the effective date of this Ordinance, no such building shall have more than six (6) attached units.

#### DWELLING, SINGLE-FAMILY DETACHED

A building designed for and occupied exclusively as a residence for only one (1) family with yards on all sides of the dwelling.

#### DWELLING, SINGLE-FAMILY SEMI-DETACHED (TWIN)

Two (2) dwelling units, each accommodating one (1) family, which are attached side by side by means of a party wall with each dwelling unit having only one (1) side yard.

#### DWELLING, TWO FAMILY DETACHED (DUPLEX)

Two (2) dwelling units, each accommodating one (1) family, which are arranged one on top of the other, with each dwelling unit having two (2) side yards.

#### DWELLING UNIT

A single unit providing complete independent living facilities for one or more persons functioning as a family, including permanent provisions for living, sleeping, eating, cooking and sanitation.

#### EAST COAST GREENWAY

A proposed bicycle and pedestrian trail which when completed is expected to connect the major cities on the eastern seaboard and extend from Maine to Florida.

#### ESSENTIAL SERVICES

The erection, construction, alteration or maintenance, by public utilities or municipal or other governmental agencies, of underground or overhead gas, electrical, steam or water transmission or distribution systems, collection, communication, supply or disposal systems and their essential buildings, excluding communications towers and communications antennas, as defined herein.

#### FAA

Federal Aviation Administration of the U.S. Department of Transportation

#### FAMILY

Any number of individuals living together as a single housekeeping unit when said individuals are related by blood, marriage, or adoption, including foster children: or no more than three (3) unrelated individuals living together as a single housekeeping unit with single kitchen facilities.

#### FAMILY- BASED CHILD DAY CARE HOME

A home other than the child's own home, operated for profit or not-for-profit, in which childcare is provided at any one time to four (4), five (5) or six (6) children unrelated to the operator.

#### FERRY

A boat or other craft intended and designed for the transport or conveyance of not more than 30 passengers. Such vessel shall not exceed a length of 80 feet.

## FLOOR AREA, GROSS

The sum of the gross horizontal areas of the several floors of a building measured from the exterior face of exterior walls or from the centerline of a wall separating two buildings, but not including interior parking spaces, loading space for motor vehicles or any space the floor-to-ceiling height is less than six (6) feet. Gross floor area also includes but is not limited to the following:

- Elevator shaft, stairwell, and attic space providing headroom of six (6) or more feet.
- The floor areas of roofed terraces, exterior balconies, breezeways porches where over 50 percent of the perimeter is enclosed.
- Any floor space used for dwelling purposes no matter where located within a building.

## FOOD PREPARATION/CATERING

The preparation, packaging, separation, shrink-wrapping and vacuum sealing of food items for the purpose of later consumption; or the preparation, cooking, and baking of raw food items, generally in large quantities, for transport to off-site locations for consumption.

## FREESTANDING BUILDING

Any building located within a development site which is separate from any group or cluster development on such site and which shall comply with the regulations of the district in which it is located.

## GASOLINE SERVICE STATION

Any area of land, including structures thereon, or any building or part of thereof that is used for the sale of gasoline or other motor vehicle fuel or accessories and which may or may not include facilities for lubricating, washing or otherwise servicing motor vehicles, but which shall not include painting or body and fender repairs.

## GASOLINE STATION, SELF-SERVICE

A property and/or place of business where flammable or combustible liquids used as motor fuels are stored and dispensed from fixed equipment into the fuel tanks of motor vehicles by a person other than the service station attendant.

## HAZARDOUS MATERIALS

Those chemicals or substances, which are defined as “physical hazards” or “health hazards” in the most recently adopted Uniform Construction Code.

## HEIGHT OF A COMMUNICATIONS TOWER

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

## HOTEL

Any building, other than a spa/retreat, in which there are five (5) or more guest rooms used, designed or intended to be used, let, or hired out for the purpose of offering to the general public lodging on a day-to-day basis not to exceed 30 consecutive calendar days, where the primary entrance is through a lobby or foyer, and also, in which there are no provisions for cooking in any individual room or suite unless specifically permitted by the Zoning Hearing Board. A hotel may include additional facilities and services, such as restaurants, meeting rooms, entertainment,

personal services, and recreational facilities.

#### **IMPERVIOUS SURFACE**

The coverage of the lot area or tract area by materials that prevent the percolation of water into the soil and generate stormwater runoff, such as buildings, streets, parking areas, driveways, and any other similar surfaces including stone and/or gravel.

#### **INDUSTRIAL HERITAGE CORRIDOR**

A strip of land located generally within Eddystone Borough, Ridley Township and Tinicum Township between I-95 and the Delaware River within which the Industrial Corridor Design, Phase 1 component of the Delaware County Renaissance Program permits lower impact, technology-based and water-related used in specified zoning districts.

#### **LABORATORY**

A scientific, industrial, research, testing, experimental or product development facility, provided that any laboratory animals shall, at all times, be kept within completely enclosed buildings. Also, all chemical, biological, or other substances, emissions, or by-products of the procedures or operations conducted within the laboratory, shall be confined to the facility and not be permitted to escape or be emitted outside the facility.

#### **LANDSCAPED PLANTING AREA**

An area landscaped with grass, ground cover, shrubs, or similar plantings placed where required by this Ordinance and permanently maintained. See Section 2009.

#### **LARGER THAN UTILITY RUNWAY**

A runway that is intended to be used by propeller driven aircraft of greater than 12,500 pounds maximum gross weight as well as jet powered aircraft.

#### **LIGHT INDUSTRY/LIGHT MANUFACTURING**

Industrial processes where the finished item, material or product does not exceed 30 cubic feet, which is conducted in an enclosed building and which complies with all performance standards listed in Article 24. There shall be no deliveries by vehicles having a gross vehicle weight in excess of 23,000 pounds.

#### **LIGHT INDUSTRIAL PARK/FLEX FACILITY**

A tract of land that has been planned, developed, and operated as an integrated facility for a number of individual industrial establishments, with special attention to circulation, parking, utility needs, aesthetics and compatibility. The park may contain mixed uses, or flex space in the form of manufacturing support facilities, showroom and display areas, offices and office support functions, and research and product development related uses.

#### **LOADING SPACE**

An accommodation off the street for loading and unloading of trucks in the form of one or more truck berths located either within or outside a building on the same lot. Such spaces shall comply with Section 2206.

#### LOT

A parcel of land that is or may be occupied by a building and/or accessory structure or use, including yards and setbacks as are required within the district in which the parcel is located.

#### LOT AREA

The total horizontal area within the lot lines of a lot, excluding street right of way.

#### LOT, CORNER

A lot bounded by intersecting streets on at least two sides. Both yards adjacent to streets shall be considered front yards.

#### LOT DEPTH

The distance along a straight line measured from the midpoint of the front lot line to the midpoint of the rear lot line.

#### LOT LINE

A line of public 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 line separating the lot from the street right-of-way.

#### LOT LINE, REAR

Any lot line, except the front lot line, which is parallel to, or within 45 degrees of being parallel to, and does not intersect any street line, except in the case of corner lots.

#### LOT LINE, SIDE

Any lot line that is not a front or rear lot line.

#### LOT, MINIMUM AREA OF

The lot area established by the Ordinance on which a use or structure may be located in a particular district.

#### LOT WIDTH

The horizontal distance between the side lot lines measured at right angles to the lot depth at the building setback line.

#### MARINE WHOLSALE

Establishments primarily engaged in selling marine-related products to other businesses, including retailers, industrial and commercial, or acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies.

#### MEDICAL MARIJUANA ACT

Act 16 of 2016, 35 P.S. § 10231.101, as amended from time to time.

#### **MEDICAL MARIJUANA DISPENSARY**

A person, including a natural person, corporation, partnership, association, trust or other entity, or any combination thereof, which is registered by the Department of Health of the Commonwealth of Pennsylvania under the Medical Marijuana Act to dispense medical marijuana. The term does not include a health care medical marijuana organization under Chapter 19 of the Medical Marijuana Act.

#### **MEDICAL MARIJUANA GROWER/PROCESSOR**

A person, including a natural person, corporation, partnership, association, trust or other entity, or any combination thereof, which is registered by the Department of Health of the Commonwealth of Pennsylvania under the Medical Marijuana Act to grow and process medical marijuana. The term does not include a health care medical marijuana organization under Chapter 19 of the Medical Marijuana Act.

#### **MOTEL**

A building containing rental units with entrances provided directly or closely in connection with automobile parking serving such rooms, which is designed, intended or used principally for the provision of sleeping accommodations for automobile travelers and is suitable for occupancy at all seasons of the year, including meeting, dining and similar accessory facilities.

#### **MULTI-TENANT BUILDING**

A building designed or converted to accommodate three (3) or more commercial tenants. Each tenant shall operate a use that is permitted in the district where the building is located.

#### **NEW CONSTRUCTION**

A structure for which construction was started after the effective date of this Ordinance.

#### **NO- IMPACT HOME- BASED BUSINESS**

A business or commercial activity which is clearly secondary to the use as a residential dwelling and involves no customer, client or patient traffic, whether vehicular or pedestrian, pickup, delivery or removal from the premises, in excess of those normally associated with residential use, and complies with Section 2011.

#### **NONCONFORMING BUILDING OR STRUCTURE**

A building or structure that does not comply with the provisions of this Ordinance, as amended, where such building or structure lawfully existed prior to the effective date of this Ordinance or of amendments thereafter.

#### **NONCONFORMING LOT**

Any lawful lot that does not conform to one or more of the applicable provisions of the district in which it is located either on the effective date of this Ordinance or of amendments thereafter.

#### **NONCONFORMING USE**

A use, whether of land or a structure, which does not comply with the applicable provisions of this Ordinance, where such use was lawfully in existence prior to the effective date of this Ordinance or amendments thereafter.

## OBSTRUCTION

Any structure, growth or other object, including a mobile object, which exceeds a limiting height set forth in Article 19-A of this Ordinance.

## OFFICE

Buildings, structures or parts thereof used to conduct the business of administrative, professional, or clerical operations, but not including an office for an escort bureau or outcall entertainment referral service. Incidental uses, such as medical or dental testing or diagnostic services, are permitted in conjunction with medical and dental offices.

## OFFICE PARK

A tract of land that has been planned, developed, and operated as an integrated facility for the office uses of a number of individual business establishments, with special attention to circulation, parking, utility needs, aesthetics and compatibility.

## PARKING GARAGE, MULTI-LEVEL

A multi-level structure used for the parking of automobiles owned by the general public or operated principally for users of the Philadelphia International Airport.

## PARKING SPACE

A reasonably level space, having a surface slope not exceeding six (6) percent. Such space shall have an area as listed in Article 22, which shall be exclusive of passageways, driveways, or other means of circulation or access.

## PEDESTRIAN-ORIENTED USE

A use that promotes walking, window-shopping, and general pedestrian activity. Examples of these uses are restaurants, retail stores, food stores and service establishments. These establishments that are generally located in centralized parts of a community, rely mainly on customers from nearby neighborhoods who could walk to these establishments. Attractive paving, period lighting, plazas, benches and shade trees are important components of pedestrian-oriented uses.

## PENNSYLVANIA MUNICIPALITIES PLANNING CODE (MPC)

Pennsylvania Act 247 of 1968 (P.L. 805) as amended, also cited as 53 P.S. 10101 et seq. or any subsequent act of the Commonwealth of Pennsylvania which replaces, supplements, or repeals any or all of the provisions of Act 247.

## PERMIT

Written municipal permission issued by the appropriate local official empowering the holder thereof to do some act not forbidden by law but not permitted without such authorization.

## PERSONAL SERVICE SHOP

A business engaged in providing services involving the care or appearance of a person, his or her clothing or similar personal needs. Included in this definition are barber, beautician, shoe repair, fitness club, laundry or cleaner, or similar establishment, but not including a tattoo parlor.

#### PERVIOUS SURFACE

A land surface that consists of material that permits full absorption of stormwater.

#### PLANTED VISUAL SCREEN

A strip of trees, bushes, or hedges adjacent to the boundary of a property which, at time of planting shall be not less than six (6) feet high and of sufficient density to constitute an effective visual screen and thereby give visual protection to abutting properties. Such screen shall consist primarily of dense evergreens that shall be planted not farther than seven (7) feet from one another and shall be permanently maintained. Deciduous trees may be added to create interest and variety. Also see Section 2008.

#### PRECISION INSTRUMENT RUNWAY

A runway having an existing instrument approach procedure utilizing an Instrument Landing System (ILS) or a Precision Approach Radar (PAR). It also means a runway for which a precision approach system is planned and is so indicated on an approved airport layout plan or any other planning document.

#### PRINCIPAL BUILDING OR USE

A building or use which is the primary building or use on a lot as distinguished from a building or buildings relating to an accessory, incidental or subordinate use. The primary purpose for which land, a building or a subordinate structure or the use thereof is designed, arranged or intended.

#### PUBLIC ACCESS

As used in the waterfront districts of this Ordinance, a way or path used to provide access to the water's edge generally for pedestrians and bicyclists.

#### PUBLIC UTILITY TRANSMISSION TOWER

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

#### RECREATIONAL AREA

A place designed and equipped for the conduct of sports, leisure time activities and other customary and usual recreational activities.

#### RESTAURANT, DRIVE-THROUGH

Any premises used for the sale of food, refreshments, and non-alcoholic beverages. the design or method operation of which includes the serving of food and beverages in disposable containers where food or beverages are not normally delivered to the customer's table by an employee of the restaurant. Such restaurant may also include the delivery of food and beverages directly from the restaurant to the customer in his or her motor vehicle.

#### RESTAURANT, STANDARD OR SIT-DOWN

Any premises used for the sale, dispensing and/or serving of food, refreshments, or beverages where the customer is normally involved with an individual menu and is served by a restaurant employee at the table, booth, or counter at which said items are consumed.

#### RIGHT-OF-WAY (ROW)

Land acquired by reservation, dedication, prescription, condemnation or other legal manner and occupied or intended to be occupied by a public or private street, crosswalk, electric transmission line, oil or gas pipeline, water line, watercourse, or similar uses.

#### RIGHT-OF WAY LINE

The line that forms the boundary of a street, public, or private.

#### ROOMING HOUSE

Any dwelling or part thereof containing one (1) or more rooming units, in which space is let by the owner, operator or manager to three (3) or more persons who are not related to each another by blood, adoption, marriage or formal foster relationship.

#### SATELLITE ANTENNA

An antenna together with all attachments and parts, the purpose of which is to receive communication from orbiting satellites. Such antennas shall comply with Section 2006.

#### SCREEN

Any barrier intended and designed to shield properties and uses from other uses or activities having greater visual, sound, and other impacts. e.g. screening of residential uses from impacts of industrial uses or activities.

#### SETBACK

The distance between the street right-of-way line or a lot line and any building on a lot.

#### SETBACK, REQUIRED

The minimum distance from the street right-of-way line and any other lot line that establishes the area, commonly known as the "building envelope." within which the principal structure must be erected or placed.

#### SHOPPING CENTER

A group of commercial establishments planned, constructed and managed as a total entity, including both attached buildings and freestanding buildings, with customer and employee parking provided on site.

#### SIGN

Any object, device, display, or illustration 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, numbers or symbols.

#### SIGN, ACCESSORY USE

A sign that identifies a home occupation.

#### SIGN, ADVERTISING CLOTH

A sign which has its letters or design applied to cloth, canvas or other flexible material which is durable and weather resistant.

#### SIGN AREA

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

#### SIGN, AWNING OR CANOPY

A sign that is mounted or painted on or attached to an awning, canopy or other fabric, plastic, or structural protective cover over a door, entrance, window or outdoor service area.

#### SIGN, CHANGEABLE COPY

A sign or portion thereof with characters' letters or illustrations that can be changed or rearranged without altering the face or the surface of the sign. A sign on which the message changes more than eight (8) times per day shall be considered an animated sign and not a changeable copy sign for purposes of this Ordinance. A sign on which the only copy that changes is an electronic or mechanical indication of time or temperature shall be considered a "time and temperature sign" and not a changeable copy sign for purposes of this Ordinance.

#### SIGN, CURB OR SIDEWALK

A movable sign which is not secured or attached permanently to the ground.

#### SIGN, DIRECTIONAL

A sign limited to directional messages principally for pedestrians or vehicular traffic, such as "entry", "exit", "one way", "loading" "service area", "fire lanes", "parking" or a similar sign incidental to the primary use and not itself advertising or naming that use except as required by law.

#### SIGN FACE

The area or display surface used for the message.

#### SIGN, FREESTANDING

A detached sign which shall include any sign placed upon or in the ground, supported by a post, stake, etc. and not attached to any building.

#### SIGN, GROUND

A sign, supported by the ground independent of any other structure, generally supported by timbers and not exceeding five (5) feet in height.

#### SIGN, IDENTIFICATION

A sign depicting 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 towards the sign.

#### **SIGN, INCIDENTAL**

A sign, generally informational, that has a purpose secondary to the use of the property on which it is located, such as "no parking", "entrance", "loading only", "telephone", and other similar directives. No sign with a commercial message legible from a position off the lot on which a sign is located shall be considered incidental.

#### **SIGN, MENU**

A sign which depicts the menu of food and/or drink for sale at an eating or drinking establishment.

#### **SIGN, MOVABLE DIGITAL**

A sign that contains moving text or graphics programmed by the "on/off" action of multiple LED bulbs.

#### **SIGN, NAMEPLATE**

A sign indicating only the name and/or profession and address of the person(s) residing or legally occupying the premises.

#### **SIGN, PROJECTING**

A sign that is attached to a building and which projects more than 12 inches from such building.

#### **SIGN, SALES OR PRICE CHANGE**

A type of temporary sign that has a high turnover, such as those advertising "sales" and frequent price changes. These signs are most commonly found on windows/doors of supermarkets, grocery stores and beverage distributors. In most cases, these signs are constructed of paper, cardboard, or other lightweight materials.

#### **SIGN STRUCTURE**

The supports, uprights, braces, and framework of the sign.

#### **SIGN, SWINGING**

A projecting sign capable of swinging freely by the wind but is not automated or activated to swing in any manner. Sign shall be tethered so that the arc of its swing does not exceed 45 degrees. Sign bottom must be at least eight feet from the ground surface.

#### **SIGN, TEMPORARY**

A sign that is used in connection with an event, situation, or circumstance that is designed or intended to take place or be completed within 30 days after the permit for the sign was issued or is intended to remain on the location where it is placed or erected for not more than 30 days.

#### **SIGN, WALL**

A sign posted on, painted on, suspended from, or otherwise affixed to a wall or vertical surface of a building that does not project more than 12 inches from the wall or vertical surface to which it is attached.

#### **SIGN, WINDOW**

A sign attached or affixed to a window or door.

#### **SMALL COLLECTION FACILITY FOR RECYCLING**

A facility for the collection of paper, glass, aluminum or other officially designated recyclable materials. Such facility shall have an area of not more than 500 feet, located permanently on the same lot with a principal or host use. No power-driven processing equipment is to be used on the site. A permit from the township shall be required to establish operation of such facility.

#### **SOUND BARRIER**

A barrier or screen designed to shield a use from the sound impacts of another use or activity that emits substantial noise or sound. An example is a sound barrier between "airport dependent" uses and residential or commercial uses.

#### **SPECIAL EXCEPTION**

A use permitted in a particular district(s) pursuant to review by the Zoning Hearing Board, in accordance with Articles VI and IX of the Planning Code and Articles 21 and 26 of this Ordinance.

#### **STREET**

A public or private way used or intended to be used as a means of vehicular and pedestrian travel and access to abutting properties and space for public utilities, which is improved to the satisfaction of the Township.

#### **STREET LINE (STREET RIGHT-OF-WAY)**

The line dividing the street and the abutting property. The street line shall be the same as the right-of way.

#### **STRUCTURE**

Anything constructed or erected with a fixed location on the ground or attached to something having a fixed location on the ground.

#### **SWIMMING POOL (PRIVATE)**

Any body of water, tank, or receptacle of water having a depth at any point of greater than two (2) feet used or intended to be used for swimming or bathing solely by the owner, his family and guests of the household and constructed, installed, established or maintained outside any building in or above the ground upon any premises as an accessory use to the residence.

#### **TOWNHOUSE BUILDING**

A building containing single-family attached dwelling units (townhouse units) in which each townhouse unit is attached only by a party wall or walls to one or two other townhouse units. Townhouse buildings erected after the effective date of this Ordinance shall contain not less than three (3) or more than six (6) attached units.

#### **TOWNHOUSE DEVELOPMENT**

A contiguous area of land developed as a single entity for a number of townhouse buildings, the development plan for which corresponds with the specific regulations of Section 2125.

#### **TRACT**

An area, lot, parcel, site or property that is the subject of a subdivision and/or land development.

#### TRACT AREA

The total acreage of a subdivision or land development. Tract area shall be measured to the ultimate right-of-way line of public streets.

#### VARIANCE

Relief granted by the zoning hearing board pursuant to Articles VI and IX of the MPC and Article 26 of this Ordinance.

#### VIEW CORRIDOR

An open-air space that provides a clear view across one or more lots to the Delaware River or Darby Creek from an abutting street, sidewalk, park, plaza or other public space.

#### VISUAL RUNWAY

A runway intended solely for the operation of aircraft using visual approach procedures.

#### WATER-DEPENDENT USE

A use that requires direct access to, or location adjacent to or in marine or tidal waters and which, therefore is not customarily located in inland areas. Water dependent uses include but are not limited to marinas, recreational and commercial fishing and boating facilities, waterfront dock and port facilities and light industrial uses dependent on waterborne transportation.

#### WATERFRONT RESTAURANT/BAR

An eating and/or drinking place located in the W-1 or W-1A Waterfront district that complies with the district purposes relating to size and scope of development as stated in Section 1500. No such restaurant/bar shall have a floor area devoted to patron use in excess of 3000 square feet. The term "bar" shall include lounge, tavern, or any other establishment serving alcoholic beverages.

#### WATERFRONT RETAIL STORE

A retail store or shop located in the W-1 or W-1A Waterfront district, which complies with the statements relating to size and scope of development in the district, as noted in Section 1500. No such store shall be established or enlarged to have a floor area devoted to customer use in excess of 3,000 square feet.

#### WATER-RELATED USE

A use where a substantial portion of the goods or services provided are derived from water or waterfront dependent activities or in connection with such activities. Also, a use that relies on or is associated with the recreational, environmental, historical, cultural, tourist-related or activity generating aspects, activities or potential of the waterfront.

#### YARD

An unobstructed open space on the same lot with a principal building which lot extends from a street line or lot line inward to the principal building and is not less than the required yard.

#### YARD, FRONT

A yard extending the full width of the lot, the depth of which extends from the front lot line to the nearest point of the principal building and not less than the required front yard.

#### YARD, REAR

A yard extending the full width of the lot, the depth of which extends from the rear lot line to the nearest point of the principal building and not less than the required rear yard.

#### YARD, REQUIRED

The open space between a lot line and the buildable area or “building envelope” within which the principal building must be placed or erected.

#### YARD, SIDE

A yard extending between the inside lines of the front and rear yards and extending in width from the side lot line to the nearest point of the principal building and not less than the required side yard.

#### YARDS, CORNER LOTS

In the case of a lot bounded by streets on at least two (2) sides, both yards abutting streets shall be considered front yards. The rear yard shall be that opposite the shorter street frontage while the side yard shall be that opposite the longer frontage. In case this definition does not provide sufficient information for a clear determination of side and rear yard on a corner lot, the Township Engineer or Code Enforcement Officer shall make that determination.

## **ARTICLE 3:**

### **R-1 RESIDENTIAL DISTRICT**

#### **300. District Purposes**

The purposes of this district are to provide for and maintain medium density residential development, preserve and protect open spaces, and provide for certain uses permitted by special exception.

#### **301. Uses Permitted by Right**

A building may be erected, altered, or used and a lot may be used for only one or more of the following uses:

1. Single family detached dwelling.
2. Family-based community residence facility, subject to Section 2007.
3. Tincum Township municipal building, community center, library or similar use.
4. Tincum Township municipal park, playground or recreation area.

#### **302. Uses Permitted by Special Exception**

The following uses shall be permitted only by special exception, subject to Articles 21 and 26.

1. Church or other religious use, including rectory, classrooms for Sunday school instruction or similar accessory use.
2. Child day care center as part of a school or church, subject to Section 2106.
3. Public educational use such as school or college.

#### **303. Accessory Uses and Structures**

1. Private parking garage or parking area, subject to Article 22.
2. Storage shed, subject to Section 2003.
3. No-impact home-based business, as defined in Article 2, subject to Section 2011.
4. Private swimming pool, subject to Section 2005.
5. Sign, subject to Article 23.
6. Satellite antenna, subject to Section 2006.
7. Deck, subject to Section 2003, relating to accessory uses.
8. Family-based child day care home, subject to Section 2004.

9. Small collection facility for recycling, subject to Section 2010, on public land only.
10. Any accessory use on the same lot with and customarily incidental to the above permitted uses, and not detrimental to the neighborhood.

### **304. Area and Bulk Regulations**

Unless specifically stated otherwise, the following shall be minimum requirements.

1. Single-family detached dwelling:
  - a. Lot area - 5,000 square feet.
  - b. Lot width - 50 feet.
  - c. Front yard - 15 feet.
  - d. Side yard - 20 feet aggregate and 7 feet, minimum
  - e. Rear yard - 25 feet.
  - f. Building coverage - 40 percent, maximum.
  - g. Impervious surface - 60 percent, maximum.
  - h. Building height- - 35 feet, maximum.

## **ARTICLE 4:**

### **R-1A RESIDENTIAL DISTRICT**

#### **400. District Purposes**

The purposes of this district are to provide for and maintain medium density residential development, preserve and protect open spaces, and provide for certain uses permitted by special exception.

#### **401. Uses Permitted by Right**

A building may be erected, altered or used and a lot may be used for only one or more of the following uses:

1. Single-family detached dwelling
2. Tincum Township municipal building, community center, library or similar use.
3. Tincum Township municipal park, playground or recreation area.

#### **402. Uses Permitted by Special Exception**

The following uses shall be permitted only by special exception, subject to Articles 21 and 26.

1. Church or other religious use, including rectory, classrooms for Sunday school instruction or similar accessory use.
2. Public educational use such as school or college.

#### **403. Accessory Uses and Structures**

1. Private parking garage or parking area, subject to Article 22.
2. Storage shed, subject to Section 2003.
3. Private swimming pool, subject to Section 2005.
4. Patio or deck
5. No-impact home-based business, subject to Section 2011.

#### **404. Area and Bulk Regulations**

Unless specifically stated otherwise, the following shall be minimum requirements:

1. Single-family detached dwelling
  - a. Lot area - 6,250 square feet
  - b. Lot width - 50 feet

- c. Front yard - 25 feet
- d. Side yards - 20 feet aggregate and 8 feet minimum
- e. Rear yard - 25 feet
- f. Building coverage - 35 percent, maximum
- g. Impervious surface - 55 percent, maximum
- h. Building height - 35 feet, maximum

**ARTICLE 5:**  
**R-2 RESIDENTIAL DISTRICT**

**500. District Purposes**

The purposes of this district are to provide for and maintain medium-high density residential development, preserve and protect open spaces and provide for certain uses permitted by special exception.

**501. Permitted by Right**

A building may be erected, altered or used and a lot may be used for only one or more of the following uses:

1. All uses permitted in the R-1 Residential district
2. Single family semi-detached dwelling (twin)
3. Two- family detached dwelling (duplex)

**502. Uses Permitted by Special Exception**

The following uses shall be permitted only by special exception, subject to Articles 21 and 26.

1. All uses permitted by special exception in the R-1 district, except educational use.
2. Residential conversions, subject to Section 2105.

**503. Accessory Uses and Structures**

All accessory uses and structures permitted in the R-1 district.

**504. Area and Bulk Regulations**

Unless specifically stated otherwise, the following shall be minimum requirements:

1. Single - family detached dwelling
  - a. Lot area - 4,000 square feet.
  - b. Lot width - 40 feet.
  - c. Front yard - 15 feet.
  - d. Side yards - 18 feet aggregate and 7 feet, minimum.
  - e. Rear yard - 25 feet.
  - f. Building coverage - 45 percent, maximum.

- g. Impervious surface - 65 percent, maximum.
  - h. Building height - 35 feet, maximum.
2. Single family semi-detached dwelling (twin)
- a. Lot area - 3,500 square feet per dwelling unit.
  - b. Lot width - 35 feet.
  - c. Front yard - 15 feet.
  - d. Side yard - 10 feet, on one side.
  - e. Rear yard - 25 feet.
  - f. Building coverage - 55 percent, maximum.
  - g. Impervious surface - 70 percent, maximum.
  - h. Building height - 35 feet, maximum
3. Two family detached dwelling (detached duplex)
- a. Lot area - 5, 000 square feet.
  - b. Lot width - 50 feet.
  - c. Front yard - 15 feet.
  - d. Side yards - 10 feet each side.
  - e. Rear yard - 25 feet.
  - f. Building coverage - 55 percent, maximum.
  - g. Impervious surface - 75 percent, maximum.
  - h. Building height - 35 percent, maximum.

## **ARTICLE 6:**

### **R-3 RESIDENTIAL DISTRICT**

#### **600. District Purposes**

The main purpose of this district is to provide for and maintain high density residential development, in the form of townhouses. Secondary purposes are to provide for detached and semi-detached housing types, to establish appropriate open spaces and provide for uses by special exception.

#### **601. Uses Permitted by Right**

A building may be erected, altered or used and a lot may be used for only one or more of the following uses:

1. All uses permitted by right in the R-2 Residential district.
2. Single family attached dwelling (townhouse)

#### **602. Uses Permitted by Special Exception**

The following uses shall be permitted only by special exception, subject to Articles 21 and 26.

1. Residential conversion, subject to Section 2105.

#### **603. Accessory Uses and Structures**

All accessory uses and structures permitted in the R-1 district, except small recycling facilities.

#### **604. Area and Bulk Regulations**

Unless specifically stated otherwise, the following shall be minimum requirements:

1. Single family detached  
As permitted in Section 504.1 of the R-2 district.
2. Single family semi-detached dwelling  
As permitted in Section 504.2 of the R-2 district.
3. Two family detached dwelling (detached duplex).  
As permitted in Section 504.3 of the R-2 Residential district,
4. Single family attached dwelling (townhouse)
  - a. Lot area - 2,000 square feet.
  - b. Lot width - 20 feet.

- c. Front yard - Not less than that for existing dwellings on same block; 15 feet where there are no existing dwellings on same block.
- d. Side yard - 10 feet at end of row.
- e. Rear yard - 25 feet.
- f. Units in row - 6 maximum.
- g. Building coverage - 60 percent, maximum.
- h. Impervious surface - 80 percent, maximum.
- i. Building height - 35 feet, maximum.
- j. Separation distance - 25 feet between buildings

**ARTICLE 7:**  
**RESERVED**



## ARTICLE 8:

### C-1 COMMERCIAL DISTRICT

#### 800. District Purposes

The purposes of this district are to provide for a wide range of pedestrian and highway-oriented retail and service uses which are intended to serve both transient and neighborhood customers and to allow, regulate and provide sufficient space for automobile-related merchandising, including the provision of sufficient off-street parking facilities.

#### 801. Uses Permitted by Right

A building may be erected, altered or used and a lot may be used for only one or more of the following uses:

1. Retail store, including general merchandise, hardware, or variety store, gift shop, pharmacy or similar establishment.
2. Food store, including grocery store, supermarket, and bakery, confectionery, or convenience store (e.g. Wawa, etc.) where goods are sold at retail.
3. Personal service shop, including barbershop, beautician, shoe repair, tailor, fitness salon or spa or laundromat.
4. Eating or drinking establishment, including standard restaurant, pizza shop, delicatessen or similar use, and take-out establishment, but excluding drive-through establishment.
5. Caterer.
6. Bank or other financial institution.
7. Medical or dental office or clinic.
8. Veterinarian.
9. Office or office building.
10. General service and repair, such as furniture, watch, radio, appliance and similar establishments but excluding service and/or repair of automobiles and heavy equipment such as trucks, tractors, construction equipment, etc.
11. Tradesman's shop, such as electrician, carpenter.
12. Commercial education, such as beauty school, business school, computer training center, etc.
13. Movie theater or place of amusement, excluding adult entertainment, as defined in

Article 19-A.

14. Tincum Township municipal building or other low impact municipal use.
15. Multi-family building.
16. Multi-family unit (apartment), above a commercial use permitted in this district.
17. Any use of the same general character as any of the uses permitted above, provided that it is consistent with the purposes of the district and not detrimental to the surrounding neighborhood. The Code Enforcement Officer (CEO) shall make such determination after recommendation by the Township Engineer.

**802. Uses Permitted by Special Exception**

The following uses shall be permitted only by special exception, subject to Articles 21 and 26.

1. Wholesale establishment.
2. Funeral home or mortuary, subject to Section 2109.
3. Child day care center, subject to Section 2106.
4. Nursery school or kindergarten
5. Drive-through establishment, such as a restaurant, bank or car wash.
6. Residential conversion, subject to Section 2105.
7. Boarding house and rooming house, as defined in Article 2.

**803. Accessory Uses and Structures**

1. Outdoor storage in the side or rear yard only, provided that such storage area is completely screened from the street or sidewalk by an opaque fence or similar effective visual barrier (such as a wall or berm) which shall be not less than six (6) feet high.
2. Off-street parking, subject to Article 22.
3. Sign, subject to Article 23.
4. Satellite antenna, subject to Section 2006.
5. Small collection facility for recycling, subject to Section 2010.
6. Any accessory use on the same lot or tract with and customarily incidental to any of the above permitted uses, and not detrimental to the neighborhood.

#### **804. Special Development Regulations**

1. Each permitted use shall be conducted within a completely enclosed building.
2. A planted visual screen, as defined in Article 2, shall be provided as required in Section 2008 in areas that abut a residential district.
3. Landscaping shall be provided in accordance with Section 2009.
4. No goods, items or equipment shall be offered for sale beyond the front lines of a building, except for temporary sales or promotions lasting not more than five (5) days. Any such temporary event or sale including display or sale beyond the front line of the building, which exceeds five (5) days in duration, shall require a permit from the Township.
5. All applicable provisions of Article 22 Parking, Article 24 Performance Standards, and Article 23 Signs shall be followed.
6. All refuse shall be placed in closed, vermin-proof containers.

#### **805. Area and Bulk Regulations**

Unless specifically noted otherwise, the following shall be minimum requirements:

1. Detached buildings
  - a. Lot area - 5,000 square feet
  - b. Lot width - 50 feet.
  - c. Front yard - Depth shall be equal to the predominant front yards of existing buildings on the same block. Where there are no existing buildings within 100 feet of the proposed building, such proposed building shall have a front yard of not less than 5 feet or more than 15 feet.
  - d. Side yards - 20 feet aggregate and 8 feet, minimum.
  - e. Rear yard - 15 feet.
  - f. Building coverage - 50 percent, maximum.
  - g. Impervious surface - 70 percent, maximum.
  - h. Height - 40 feet or 3 stories, maximum.
2. Attached buildings
  - a. Unit width - 20 feet

- b. Distance between - 25 feet buildings
- c. Front yard - Subject to Section 805.1.c above.
- d. Side yard - 15 feet each side, at end of row
- e. Rear yard - 15 feet
- f. Building coverage - 50 percent, maximum
- g. Impervious surface - 70 percent, maximum
- h. Height - 40 feet or 3 stories, maximum.

## ARTICLE 9:

### C-2 COMMERCIAL DISTRICT

#### 900. District Purposes

The purpose of this district is to provide for highway-oriented uses such as hotels/motels as well as office and retail development intended to serve airport passengers and employees, county wide and regional customers, as well as east coast markets via I-95.

#### 901. Uses Permitted by Right

A building may be erected, altered or used and a lot may be used for only one or more of the following uses:

1. Office or office building
2. Place of indoor amusement such as bowling alley or theater, but not adult entertainment, as defined in Article 19-A.
3. Restaurant
4. Retail store
5. Shopping center, consisting of above uses as well as two or more of the following uses:
  - a. Retail store
  - b. Personal Service Shop
  - c. Bank or financial institution
6. Uses permitted by-right in the C-1 district.

Uses permitted by right in the *Industrial Heritage Corridor Overlay district*, except light industrial park, bed and breakfast facility, sales service and repair of boats and marine equipment, and water transportation facilities.

#### 902. Uses Permitted by Special Exception

The following uses shall be permitted only by special exception, subject to Articles 21 and 26.

1. Gasoline Service station (must be outdoors), subject to Section 2107.
2. Auto sales/dealership, subject to section 2109
3. Child day care center, subject to Section 2106.
4. Any use of the same general character as those permitted by right in Section 901. Determination of same general character shall be made by the CEO after recommendation by the Township Engineer.

### **903. Conditional Uses**

1. Conference center, as permitted by conditional use in Section 1404-A of the Industrial Heritage Corridor Overlay district. The other conditional uses in Section 1404-A shall not be permitted.
2. Hotel, subject to Section 2124.

### **904. Accessory Uses and Structures**

All accessory uses permitted in the C-1 district in Section 803, and child day care centers subject to Section 2106.

### **905. Special Development Regulations**

1. Each permitted use, other than a parking area, or otherwise noted, shall be conducted within a completely enclosed building.
2. Any new construction, addition, signs, and lighting shall be in harmony with the architectural character of existing buildings in the area.
3. The interior circulation on a lot or tract shall be designed so that no driveway or street providing parking spaces shall be used as a through street.
4. If parking spaces are oriented at angles other than 90 degrees, the traffic lanes shall be restricted to a one-way flow.
5. All parking areas, driveways and loading areas shall be provided with a lighting system to adequately meet the needs of the area. All direct lighting shall be completely shielded from traffic on any driveway or street and from any residential district.
6. All applicable provisions of Article 22 Parking, Article 23 Signs and Article 24 Performance Standards shall be followed.
7. A planted visual screen, as defined in Article 2, shall be provided subject to Section 2008.
8. A buffer, as defined in Article 2, shall be provided at the property line with all residential uses. The buffer shall be not less than 25 feet wide and shall be measured from the district boundary line or the right-of-way line of the street that serves as the boundary line. Buffers may be part of the front, side or rear yard.
9. Landscaping shall be provided, subject to Section 2009.
10. No outdoor storage shall be permitted, except for an Ice Machine, Small Propane Cannister for home use (25 Maximum) or a use considered similar as determined by the Zoning Officer.
11. All walkways, parking areas and other pedestrian or automobile traffic areas shall be well-illuminated for the safety and convenience of employees, customers and other

users.

### **906. Area and Bulk Regulations**

Unless specifically stated otherwise, the following shall be minimum requirements, unless otherwise noted:

1. Lot area - 2 acres
2. Lot width - 200 feet
3. Front yard setback - 45 feet
4. Side yard - 35 feet, with 75 feet adjacent to residential districts.
5. Rear yard - 75 feet, with 100 feet adjacent to residential districts.
6. Building coverage - 40 percent, maximum.
7. Impervious surface - 65 percent, maximum.
8. Distance between buildings - 75 feet.
9. Landscaping - 35 percent
10. Height - 75 feet, maximum

For detached, single-use retail stores and food stores the following shall be minimum requirements, unless otherwise noted:

1. Lot area - 5,000 square feet
2. Lot width - 40 feet
3. Front yard setback - 30 feet
4. Side yard - 20 feet, with 50 feet adjacent to residential districts.
5. Rear yard - 30 feet, with 60 feet adjacent to residential districts.
6. Building coverage - 70 percent, maximum.
7. Impervious surface - 85 percent, maximum.
8. Height - 3 stories or 45 feet, maximum

Development as Shopping Center the following shall be minimum requirements, unless otherwise noted:

1. Tract area - 20,000 square feet.
2. Tract width - 200 feet.
3. Front yard - Subject to Section 805.1.c above
4. Rear yard - 15 feet.
5. Side yards - 20 feet each side of building
6. Building coverage - 50 percent, maximum
7. Impervious surface - 70 percent, maximum
8. Height - 40 feet or three (3) stories, maximum

## **ARTICLE 10:**

### **C-3 PLANNED COMMERCIAL OFFICE DISTRICT**

#### **1000. District Purposes**

The purposes of this district are to provide for planned office and laboratory establishments developed on a lot-by-lot basis or as a single, planned development. Development characteristics include strong project unity, common design, large site and low coverage, open space and buffer areas and the sharing of services, utilities, parking areas and amenities.

Another purpose is to prohibit the physical presence of aircraft within the district.

#### **1001. Permitted by Right**

A building may be erected, altered or used and a lot may be used for only one or more of the following uses:

1. Office building.
2. Research, development, testing or similar laboratory or facility.
3. Bank or other financial institution.
4. Restaurant, standard
5. Outdoor recreation
6. Uses permitted by right in the IHCO Industrial Heritage Corridor Overlay District, except light industrial park, bed and breakfast facility, sales, service, repair and storage of boats and marine equipment, and water transportation facility.
7. Communications antennas mounted on an existing public utility transmission tower, building or other structure, and communications equipment buildings.

There shall be no physical presence of aircraft. No airport dependent uses shall be permitted.

#### **1002. Uses Permitted by Special Exception**

1. Child day care center, subject to Section 2106.

#### **1003. Conditional Uses**

1. Conference Center, as permitted by conditional use in Section 1404-A of the Industrial Heritage Corridor Overlay district and all applicable provisions of Article 14-A. The other conditional uses in Section 1404-A shall not be permitted.
2. Hotel or motel, subject to Section 2124.

#### **1004. Accessory Uses and Structures**

The following accessory uses shall be permitted. No accessory use shall be used as a principal use on a lot.

1. Off-street parking, subject to Article 22.
2. Sign, subject to Article 23.
3. Satellite antenna, subject to Section 2006.
4. Restaurant, standard or cafeteria
5. Personal service shop
6. Meeting room and classroom
7. Indoor recreation, play area or exercise facility,
8. Child day care center, as accessory to office building, hotel or motel, or research facility/laboratory per Section 1001, subject to Section 2106.

#### **1005. Special Development Regulations**

1. Any new construction, addition, signs, and lighting shall be in harmony with the architectural character of existing buildings in the area.
2. No outdoor vending machines shall be permitted in the district.
3. No storage of merchandise, articles, or equipment shall be permitted outside a building.
4. Each building shall be designed so as to minimize its commercial appearance to afford minimum evidence of the nature of the operation conducted within.
5. No building or group of attached buildings shall exceed 180 feet in length or depth.
6. The interior circulation on a lot or tract shall be designed so that no driveway or street providing parking spaces shall be used as a through street. If parking spaces are indicated by lines with angles other than 90 degrees, the traffic lanes shall be restricted to a one-way flow to permit head-in parking. No driveway or street used for interior circulation shall have traffic lanes less than twelve (12) feet in width.
7. An on-site pedestrian circulation system must be provided, which connects the parking areas and the buildings on the site. The circulation system must be hard-surfaced and be at least five (5) feet wide. Where the system crosses driveways, parking and loading areas, it must be clearly identifiable, through the use of striping, elevation changes, speed humps, a different paving material or other similar material. In order for employees to safely use it at night, the on-site pedestrian circulation system must be adequately lighted.

8. The pedestrian circulation system shall be connected to other areas of the site such as a parking lot and any pedestrian amenities, such as plazas and resting areas.
9. All parking areas, driveways and loading areas shall be provided with a lighting system to adequately meet the needs of the area. All direct lighting shall be completely shielded from traffic on any driveway or street and from any residential district.
10. All applicable provisions of Article 22 Parking, Article 23 Signs and Article 24 Performance Standards shall be followed.
11. A planted visual screen, as defined in Article 2, shall be provided as required by Section 2008.
12. A buffer, as defined in Article 2, shall be provided at the property line with all residential uses. The buffer shall be not less than 50 feet wide as measured from the district boundary line or from the near street line where the street serves as the district boundary line. Buffers may be part of front, side, or rear yards.
13. Landscaping shall comply with Section 2009.
14. All refuse shall be placed in closed, vermin- proof containers. Materials or wastes that might cause fumes, dust or constitute a fire hazard shall be stored out of doors only in closed containers adequate to eliminate such hazard.

**1006. Area and Bulk Regulations**

Unless specifically stated otherwise, the following shall be minimum requirements:

- |    |                                      |   |   |
|----|--------------------------------------|---|---|
| 1. | Lot area                             | - | 1 acre  |
| 2. | Lot width                            | - | 125 feet  |
| 3. | Setbacks                             |   |   |
|    | a. From street                       | - | 75 feet   |
|    | b. From side and rear property lines | - | 50 feet; 100 feet when abutting a residential district. |
|    | c. Building coverage                 | - | 35 percent, maximum.                                    |
| 4. | Impervious surface                   | - | 50 percent, maximum.                                    |
| 5. | Landscaping                          | - | 45 percent  |
| 6. | Height                               | - | 100 feet, maximum.                                      |



## **ARTICLE 11:**

### **C-4 COMMERCIAL-INDUSTRIAL DISTRICT**

#### **1100. District Purposes**

The purposes of this district are to provide for laboratory, office and, light industrial establishments. Appropriate screening and landscaping are required to minimize impacts, and uses shall comply with Article 24, Performance Standards.

#### **1101. Uses Permitted by Right**

A building may be erected, altered or used and a lot may be used for only one or more of the following uses:

1. Office building or office.
2. Laboratory
3. Light industry, as defined in Article 2.
4. Communications antennas mounted on an existing public utility transmission tower, building or other structure, and communications equipment buildings.

#### **1102. Uses Permitted by Special Exception**

The following uses shall be permitted only by special exception, subject to Articles 21 and 26.

1. Auto repair and auto body shop

#### **1103. Conditional Uses**

The following uses shall be permitted only by conditional use, subject to Articles 21 and 26.

1. Trucking and distribution facility.
2. Multilevel airport parking garage, as defined in Article 2. Such facility shall have not less than 3 parking levels nor more than 5.
3. Airport dependent uses subject to the requirements of Section 1005 and Article 20.
  - a. Warehouse
  - b. Hangars
  - c. Aircraft deicing facilities
  - d. Aircraft repair facilities
  - e. Cargo transfer facilities

- f. Airport dependent uses of same general character as those listed directly above in this subsection.

#### **1104. Accessory Uses and Structures**

All accessory uses permitted in C-1.

#### **1105. Special Development Regulations**

##### 1. Screening and Sound Barriers

- a. A planted visual screen shall be provided as required by Section 2008. The required screening shall be in the form of planted visual screens, berms, or other barriers.
- b. In addition, such screening shall be of sufficient height to obscure the view of planes, other aircraft and “airport dependent” facilities, equipment, and operations from public streets or from adjacent properties. Such screen, berm, or other barrier shall, at a minimum be effective at a height of up to ten (10) feet above the highest point of the property or abutting land of adjacent property or the highest point of the adjacent street or sidewalk, whichever is highest.
- c. For Conditional Uses, applicants for airport dependent uses may be required to erect sound barriers at or near the property boundary or right-of-way line nearest the district boundary. The height of such sound barriers shall be not less than that of the screens required in Section 1105.1b.

##### 2. Landscaping

Landscaping shall be provided as required by Section 2009.

##### 3. Lighting

Lighting poles and fixtures shall not exceed 25 feet in height. Lighting shall be arranged and directed to protect the surrounding streets and adjacent properties from direct glare. No direct or sky-reflected glare from floodlights or other lighting types shall be visible at the lot line.

- 4. All access ways to any public street or highway shall be located at least 150 feet from the intersection of any two street lines and shall be designed in a manner conducive to safe ingress and egress.

- 5. All spaces between buildings and all parking, loading, and unloading, access and service areas shall be adequately illuminated at night. Such illumination shall be arranged to protect the surrounding streets and adjacent properties from direct glare.

- 6. Refuse containers shall be screened on all sides by a planted visual screen or privacy fence.

7. All refuse shall be placed in closed, vermin-proof containers. No materials or wastes that might cause fumes, dust or constitute a fire hazard shall be stored out of doors but only in closed containers adequate to contain such hazard.
8. No materials or wastes, which may be transferred off the lot by wind or other natural forces, shall be deposited on the lot.
9. All applicable provisions of Article 22 Parking, Article 24 Performance Standards, and Article 23 Signs shall be followed.

**1106. Area and Bulk Regulations**

Unless specifically stated otherwise, the following shall be minimum requirements:

1. Lot area - 50,000 square feet.
2. Lot width - 150 feet.
3. Setbacks
  - a. Front - 50 feet.
  - b. Side - 25 feet on each side of lot
  - c. Rear - 25 feet.
4. Building coverage - 50 percent, maximum.
5. Impervious surface - 70 percent, maximum.
6. Landscaping - 25 percent
7. Height - 100 feet, maximum



## **ARTICLE 12:**

### **C-4A COMMERCIAL-INDUSTRIAL DISTRICT**

#### **1200. District Purposes**

The purposes of this district are to provide for laboratory and office uses as well as light industrial and business establishments. Airport dependent uses and facilities are permitted by conditional use only. Appropriate screening and landscaping are required to minimize impacts, and uses shall comply with Article 24, Performance Standards.

#### **1201. Uses Permitted by Right**

A building may be erected, altered or used, and a lot may be used for, only one or more of the following uses:

All uses permitted in the C-4 district

#### **1202. Uses by Special Exception**

1. Communications towers, subject to the standard for the communications towers as a special exception (set forth in § 395-44) and communications equipment buildings.

#### **1203. Conditional Uses**

1. Airport dependent uses, as defined in Article 2, such as:
  - a. Hangars
  - b. Aircraft deicing facilities
  - c. Aircraft repair facilities
  - d. Cargo transfer facilities
  - e. Airport-dependent uses of the same general character as those listed above in (a) through (d).
  - f. Any use of the same general character and impact as uses permitted in Sections 1201 and 1202, provided that they are not detrimental to uses in the immediate neighborhood and in the Township.

#### **1204. Accessory Uses and Structures**

1. All accessory uses and structures permitted in the C-1 and C-3 districts.
2. All accessory uses incidental to and customarily associated with uses permitted in Sections 1201 and 1202.

## **1205. Special Development Regulations**

1. Screening and Sound Barriers
  - a. A planted visual screen shall be provided as required by Section 2008. The required screening shall be in the form of planted visual screens, berms, or other barriers.
  - b. In addition, such screening shall be of sufficient height to obscure the view of planes, other aircraft and “airport dependent” facilities, equipment, and operations from public streets or from adjacent properties. Such screen, berm, or other barrier shall, at a minimum be effective at a height of up to ten (10) feet above the highest point of the property or abutting land of adjacent property or the highest point of the adjacent street or sidewalk, whichever is highest.
  - c. The zoning hearing board may require applicants for “airport dependent” uses to erect sound barriers at or near the property boundary or right-of-way line nearest the district boundary. The height of such sound barriers shall be not less than that of the screens required in Section 1105.1b.
2. Landscaping

Landscaping shall be provided as required by Section 2009.
3. All access ways to any public street or highway shall be located at least 150 feet from the intersection of any two street lines and shall be designed in a manner conducive to safe ingress and egress.
4. All spaces between buildings and all parking, loading and unloading, access, and service areas shall be adequately illuminated at night. Such illumination shall be arranged to protect the surrounding streets and adjacent properties from direct glare.
5. Refuse containers shall be screened on all sides by a planted visual screen or privacy fence.
6. All refuse shall be placed in closed, vermin-proof containers. No materials or wastes that might cause fumes, dust, or constitute a fire hazard shall be stored out of doors only in closed containers adequate to eliminate such hazard.
7. No materials or wastes shall be placed or stored on a lot in a form or manner that they may be transferred off the lot by wind, water, or other natural forces.
8. All applicable provisions of Article 22 Parking, Article 23 Signs, and Article 24 Performance Standards shall be followed.

## **1206. Area and Bulk Regulations**

Unless specifically stated otherwise, the following shall be minimum requirements:

1. Lot area - 80,000 square feet.

2. Lot width - 200 feet.
3. Setbacks
  - a. Front - 75 feet
  - b. Side - 35 feet each side of the principal building.
  - c. Rear - 50 feet
4. Building coverage - 50 percent, maximum
5. Impervious surface - 70 percent, maximum
6. Landscaping - 30 percent
7. Height - 100 feet, maximum



## **ARTICLE 13:**

### **I-B INDUSTRIAL-BUSINESS DISTRICT**

#### **1300. District Purposes**

The purposes of this district are to provide for a variety of commercial, manufacturing, storage, industrial, business, and laboratory uses arranged in planned centers, lots, or leaseholds. This district also permits higher impact industrial uses by special exception.

Another purpose is to prohibit the physical presence of aircraft within the district.

#### **1301. Uses Permitted by Right**

A building, or a portion thereof, may be erected, altered, or used, and a lot, area, leasehold, or a portion thereof, may be altered or used for only one or more of the following uses:

1. Commercial Uses:
  - a. Retail store or establishment.
  - b. Business or professional building or use.
  - c. Financial use, such as a bank, stockbroker, finance company, or other financial establishment.
  - d. Personal service, such as barbershop or dry- cleaning.
  - e. Tincum Township municipal or civic use such as municipal office, police or fire station, or post office.
  - f. Research, development or testing laboratory or facility.
  - g. Medical clinic (outpatient only), or similar health care facility.
  - h. Electronic data processing, telecommunications, or similar use.
  - i. Towing Business
  - j. Gasoline service station, subject to Section 2107.
  - k. Auto repair and service or auto body and collision shop.
  - l. Freight facility, with no physical presence of aircraft.
  - m. Auditorium, assembly, or similar meeting place for the assembly of persons for civic, social, business, educational, and similar events or purposes.
  - n. Warehouse or distribution facility.

- o. Storage uses, and multi-level parking garages, as defined in Article 2.
2. Industrial Uses
- Manufacturing, fabricating, processing, finishing, packaging, assembly, repair, and related operations. Permitted products and operations include the following:
- a. Appliances, electronics, business machines, bicycles, musical instruments, athletic equipment, brooms or brushes, cameras or photo equipment and optical instruments and goods, film and photographic instruments
  - b. Boat building, automobile parts, recreational vehicles and other motor vehicles
  - c. Baked goods, beverages, including alcoholic.
  - d. Hemp and jute products, shoes and clothing (not including textile mills)
  - e. Dry cleaning using other than flammable liquids in cleaning or dyeing operations
  - f. Motion picture and television filming, production, and broadcast; radio program production and broadcasting.
  - g. Laundries, machinery, printing or publishing, furniture, upholstery, millwork and woodworking
  - h. Ceramics, glass, gypsum, metal, brick and masonry and plastic products.
  - i. Electrolytic-reducing works
  - j. Ice and water pumping
  - k. Engines, including rebuilding
  - l. Food processing, airport related
  - m. Storage uses such as operable vehicles, landscaping and building supplies, and trailers, but not including storage of waste tires or hazardous wastes, the latter as defined by the Pennsylvania Solid Waste Management Act, 35 P.S. Section 6018.101 et seq., where storage of the waste tires or hazardous wastes is the principal use or occupancy.
  - n. Food processing, excluding livestock and fish.
3. Communications antennas mounted on an existing public utility transmission tower, building or other structure, including existing communications towers, and communications equipment buildings.

4. All uses of the same general character as those permitted in sections 1301.1 and 1301.2 above and having no significantly greater impact or degree of hazard than those uses, and occupancies enumerated in Section 1301.
5. Uses permitted in Section 1301, and Section 1302 below may be arranged in a business park or industrial park fashion.
6. No aircraft or airport dependent uses, as defined in Article 2, shall be permitted in this district.

### **1302. Uses Permitted by Special Exception**

Notwithstanding any provision contained in Section 1301, the following higher impact industrial uses and operations shall be permitted only by special exception, subject to the applicable provisions of Articles 21, Standards for Special Exceptions and Conditional Uses and 26, Zoning Hearing Board:

1. Boiler works.
2. Canneries, including food products.
3. Condensed and powdered milk manufacture.
4. Electric light plants and power houses.
5. Foundry.
6. Leather and tanneries.
7. Textile mills, including canvas, cotton cloth, bagging, burlap, carpets and rags.
8. Tobacco or tobacco products.
9. Medical marijuana dispensary facility.
  - a. A medical marijuana dispensary facility shall be owned and operated in accordance with all applicable laws and regulations, including the Medical Marijuana Act.
  - b. A medical marijuana dispensary facility shall be clearly identified as such in its signage.
  - c. A medical marijuana dispensary facility may only dispense medical marijuana in an indoor, enclosed, secured facility located within the commonwealth as determined by the Pennsylvania Department of Health.
  - d. A medical marijuana dispensary facility may not operate on the same site as a facility used for growing and processing marijuana.

- e. A medical marijuana dispensary facility shall be subject to quarterly inspection by the Township Zoning Officer or other Township designee.
  - f. A medical marijuana dispensary facility may not operate without a permit issued by the Pennsylvania Department of Health under the Medical Marijuana Act.
10. Medical marijuana growing/processing facility.
- a. A medical marijuana growing/processing facility shall be owned and operated in accordance with the applicable laws and regulations, including the Medical Marijuana Act.
  - b. A medical marijuana growing/processing facility shall be clearly identified as such in its signage.
  - c. A medical marijuana growing/processing facility may only grow, store, harvest or process medical marijuana in an indoor, enclosed, secured facility which includes electronic locking systems, electronic surveillance and other features required by the Pennsylvania Department of Health.
  - d. A medical marijuana growing processing facility may not operate on the same site as a facility used for dispensing marijuana.
  - e. A medical marijuana growing/processing facility shall be subject to quarterly inspection by the Township Zoning Officer or other Township designee.
  - f. A medical marijuana growing/processing facility may not operate without a permit issued by the Pennsylvania Department of Health under the Medical Marijuana Act.

**1303. Accessory Uses and Structures**

- 1. Off-street parking and loading, subject to all applicable provisions of Article 22.
- 2. Storage buildings or enclosed outdoor storage area, subject to Section 1305.4
- 3. Small Collection Facility for recycling, subject to Section 2010.
- 4. Satellite antenna, subject to Section 2006, provided, however, that Section 2006.2 relating to diameter of antennas shall not apply.
- 5. Restaurant, cafeteria, or snack bar for employees or customers of any use permitted in this district.
- 6. Signs, subject to Article 23.
- 7. Recreation area for employees

8. Living quarters for a watchman or caretaker.
9. Child day care center designed to serve occupants and employees of permitted uses, subject to Section 2106.
10. Auditorium, assembly, or similar meeting place for the assembly of persons for civic, social, business, educational, and similar events or purposes.
11. Any accessory use on the same lot with and customarily incidental to the principal use on the property and not detrimental to the area.

**1304. Special Development Regulations and Exceptions**

1. Buffer Area requirements shall not be applicable to existing structures or uses, or to any change in use relating to an existing structure. In any area where a principal new building or an addition to a principal existing building is proposed, a buffer, as defined in Article 2, shall be provided at the property line with all residential uses. The buffer shall be not less than 20 feet wide as measured from the district boundary line or from the near street line where the street serves as the district boundary line. Buffers may be part of front, side, or rear yards.
2. Screening requirements shall not be applicable to existing structures or uses, or to any changes in use relating to an existing structure. A planted visual screen, as defined in Article 2, or a privacy fence, shall be provided and continually maintained where a principal new building is proposed within 60 feet of a residential district. Planted visual screens shall comply with the requirements of Section 2008.6 and shall be provided along the property lines that face any residential district.
3. Landscaping requirements shall not be applicable to existing structures or uses, or to any changes in use relating to an existing structure. Landscaping, as per Section 2009, shall apply only to areas where a principal new building or addition to a principal existing building is proposed.
4. The space devoted to outdoor storage shall not exceed three (3) times the space occupied within an enclosed building on the premises
5. In instances where the regulations set forth in the most recent adopted version of the International Construction Code are not met with regard to fire safety, walls, separations, and isolations of incompatible uses, a separation distance of 50 feet shall be maintained between uses.
6. Each use shall comply with the NFPA 101 Life Safety Code of 1997, as amended.
7. There shall be no physical presence of aircraft.

**1305. Area and Bulk Regulations**

1. Lot area - 1 acre

- 2. Lot frontage - 75 feet (on public or private access roads)
  - 3. Building Setbacks, Lots
    - a. From exterior public road - 75 feet.
    - b. From property boundary - 40 feet.
    - c. From parking area - 20 feet.
    - d. From interior road - 40 feet.
  - 4. Building coverage - 50 percent, maximum
  - 5. Impervious surface - 75 percent, maximum.
  - 6. Height - 50 feet, maximum.
- However, height may be increased by one (1) foot for each foot that the distance between buildings exceeds 25 feet, with a maximum of 100 feet.
- 7. Distance between buildings - 25 feet

**1306. Regulations for Leaseholds**

- 1. Setbacks
  - a. From exterior public road - 50 feet.
  - b. From lease boundary - 25 feet.
  - c. From parking area - 10 feet.
  - d. From interior road - 10 feet.
- 2. Impervious surface - 75 percent, maximum
- 3. Height - Per Section 1306.6

**1307. Regulations for Industrial and Business Parks**

- 1. Tract area for industrial and business parks, as defined in Article 2, shall be not less than 3 acres with a minimum width of 150 feet.
- 2. All other regulations in Section 1306 shall apply, as applicable.

## ARTICLE 14:

### H HEAVY INDUSTRIAL DISTRICT

#### 1400. Use Regulations.

No building or land shall be used for any of the following purposes:

1. Dwelling, other than for watchmen, custodians or caretakers employed on the premises.
2. Church or other institution of religion.
3. School, except those operated for profit or incidental to the commercial or industrial operations carried on in the premises.
4. Open-lot storage, sales or display of vehicles, merchandise or any other item or items, unless the same is accessory to uses within an enclosed building, and provided that the space devoted to accessory uses, other than parking for employees or customers, which are not within an enclosed building shall not exceed three times the space occupied on the premises by enclosed buildings. Special exceptions to this section may be granted by the Zoning Board of Adjustment in the case of lots or tracts which are 8,000 square feet or more, permitting the erection of buildings occupying at least 2,000 square feet of land area, upon proof that the proposed open-lot use is accessory to such buildings and not primary, and upon proof that there is no detriment to the neighborhood.
5. The purchase, sale, loading, unloading, placing or storing of scrap iron or other metals.
6. Junkyard.
7. Automobile graveyard.
8. Storage, cleaning or servicing of outdoor toilets or tank trucks used in the outdoor toilet or cesspool cleaning business.
9. Railway freight station, air freight station, motor freight station, storage house or express, carting or hauling office or station when authorized as a special exception by the Zoning Hearing Board.
10. Handling, processing, land-filling, composting, incinerating, resource recovery, transferring and/or storage of hazardous wastes, municipal solid wastes, sanitary wastes and sewage sludges, infectious or chemotherapeutic wastes, special handling or residual wastes, construction or demolition wastes or contaminated soil except when authorized as a special exception. Authorization as a special exception shall require compliance with the operating standards established in Subsection 1405 of this section and require the applicant to produce convincing evidence to the Zoning Hearing Board that the construction or operation of a special exception facility, as

provided herein, will not produce a net increase in environmental pollution as compared to environmental pollution at the time construction or operation of the facility commences.

11. Public or private garage, sales, service and repair shop and gas filling and battery service stations, excluding junkyards, provided that all repair work is carried on within an enclosed building when authorized by special exception and Chapter 217, Noise, Article II, Noise Pollution.
12. Communications antennas mounted on an existing public utility transmission tower, building or other structure, including existing communications towers and communications equipment buildings.

#### **1401. Area Regulations**

1. There shall be a minimum lot size of 10,000 square feet; a front yard setback, as measured from the property line, of at least 25 feet, which includes provisions for a raised sidewalk; and a rear yard setback, the depth of which shall be at least 15 feet; and each side yard setback shall be at least seven feet. Buildings may not occupy more than 60% of the total lot area.
2. Off-street parking shall be provided in accordance with Subsection 2203.

#### **1402. Height Regulations**

No building shall exceed 100 feet in height, measured above the curb level, provided that for each one foot of aggregate side yard the height limit may be exceeded by one foot, subject to limitation by the airport height restrictions.

#### **1403. Loading and unloading space.**

Off-street loading and unloading space, with proper access from a street or alley, shall be provided on any lot on which a building for industry is hereafter erected or substantially altered.

#### **1404. Noise Pollution**

The operating procedures set forth in Chapter 217, Noise, Article II, Noise Pollution, are hereby adopted as part of the regulations in an H Industrial District, and an applicant for a special exception must comply strictly with the terms thereof.

## ARTICLE 14-A:

### IHCO INDUSTRIAL HERITAGE CORRIDOR OVERLAY DISTRICT

#### 1400-A. District Purposes

The purposes of this district are to provide for technology-based and waterfront-related uses designed to revitalize the Industrial Corridor along Route 291, in order to create a sustainable economic setting consistent with the needs and requirements of 21st century commerce. Provisions are also added to encourage the cultural, environmental and tourist-related features and potential of the Corridor.

#### 1401-A. Applicability

1. The Industrial Heritage Corridor Overlay (IHCO) district shall be an overlay district applicable only to the following zoning districts or portions of these districts as shown on the Tincum Township Zoning Map of 2020.  
  
C-2 Commercial district  
  
C-3 Planned Commercial Office district  
  
H Heavy Industrial district
2. In cases where a use is permitted both in the underlying district and in the Overlay district the district with the more stringent requirements shall apply.

#### 1402-A. Uses Permitted by Right

A building or group of buildings may be erected, altered or used for only one or more of the following uses. All uses shall be subject to all applicable provisions of this Overlay district and the specific provisions noted below:

1. Research, testing or product development laboratory, subject to Sections 1005 and 1006 of the Tincum Township Zoning Ordinance.
2. Electronic data processing, communications, software or internet-based design firm or similar facility, subject to Sections 1005 and 1006.
3. Bank or other financial institution, subject to Sections 1005 and 1006.
4. Light industrial park/flex facility in Heavy Industrial district only, but subject to Sections 1305 and 1306 of IB district.
5. Office or office park, subject to Sections 1305 and 1306.
6. Business or trade school, subject to Sections 1005 and 1006.
7. Service, sales, repair and storage of boats and marine equipment, in HI district only, subject to Section 1305 and 1306.

8. Museum or other cultural facility related to waterfront or local history and activities, subject to Sections 1505 and 1506.
9. Tincum Township municipal recreation facility, subject to Sections 1505 and 1506.
10. Water transportation facility in HI district only, subject to Sections 1505 and 1506.
11. Walking, hiking, biking or multi-use trail, subject to the guidelines outlined in the Industrial Heritage Parkway Route 291/13 Beautification and Greenway Plan prepared by Menke and Menke Associates.

**1403-A. Conditional Uses**

The following shall be permitted only as conditional uses when approved by the Township Commissioners in compliance with Sections 1405-A, 1406-A, and other applicable provisions of this Overlay district.

1. Conference Center.
2. Marina
3. Hotel, in the portion of the H Heavy Industrial district as specified in Section 1405-A below.
4. Townhouses, in the portion of the H Heavy Industrial district as specified in Section 1405-A below.
5. Apartments, in the portion of the H Heavy Industrial district as specified in Section 1405-A below.

**1404-A. Accessory Uses**

1. Parking area or garage, for the general public or for employees, subject to Article 22 and the parking requirements for specific conditional uses in Section 1406-A (2).
2. Signs, subject to Article 23 and Section 1407-A, Special Development Regulations.
3. Storage within an enclosed building in conjunction with a permitted use.
4. Satellite antenna, subject to Section 2006.
5. Child day care center, subject to Section 2106.
6. Cafeteria, primarily for use of employees of uses and facilities permitted in this IHCO district or any underlying district.
7. Any accessory use on the same lot with and customarily incidental to uses permitted above in this IHCO district or in any underlying district where the IHCO is permitted.

## 1405-A. Standards for Uses Permitted by Conditional Use in the IHCO Overlay district

### Standards for Uses Permitted by Special Exception and Conditional Use

1. For uses permitted by Conditional Use Permit in Section 1404-A.
  - a. Conference center
    - (1) There shall be a lot area of not less than two (2) acres.
    - (2) Building height maximum shall be 50 feet, with one (1) additional foot of height permitted for each additional 2 feet of front yard, not to exceed 75 feet.
    - (3) There shall be a setback between the principal building and the street and all property lines of not less than 30 feet.
    - (4) Off-street parking shall be in accordance with the ratios required for restaurants, retail stores, hotels/motels and places of assembly and similar uses noted in Article 22, Parking Regulations.
    - (5) Signs shall comply with Section 2304(3), Signs in C-2 district, and other applicable provisions of Article 23.
  - b. Marina
    - (1) These regulations shall apply to marinas with more than 10 boat slips.
    - (2) Each boat slip shall have minimum area of 3,000 square feet.
    - (3) Proposed marinas shall provide a recreation play area on the same lot as the marina.
    - (4) One toilet facility and one shower and sink facility, each for males and females, shall be provided for each 25 boat slips, except for spaces exclusively for winter storage.
    - (5) Pumping facilities for the removal of holding tank waste shall be provided subject to applicable Township regulations and in compliance with the Pennsylvania Department of Environmental Protection (DEP) and any other applicable state requirements.
    - (6) There shall be one off-street parking space for each boat slip, plus one space for every 400 square feet of retail sales space or boat repair space.
  - c. Hotel
    - (1) The development shall be located on that parcel having dual frontage

on the Delaware River and the Darby Creek.

- (2) The development shall otherwise meet the standards and criteria for hotel development as specified in Section 2124.
- (5) Accessory uses such as restaurants, gift shops, barber/beauty shops and meeting rooms shall be permitted provided that they are located in the hotel building.

d. Townhouses and Apartments

- (1) The development shall be located on that parcel having dual frontage on the Delaware River and the Darby Creek.
- (2) The minimum tract size for the townhouse or apartment development shall be five (5) contiguous acres.
- (3) Not less than 25 percent of the development shall be devoted to common open space
- (4) The location of structures shall take into account and minimize disturbance of natural environmental features such as rivers, creeks, floodplains and wetlands.
- (5) Dimensional Regulations (unless stated otherwise, standards are minimum requirements):
- (6) Townhouses and apartments may be developed lot-by-lot or as one unified development.

(a) Townhouses

- i. Tract Area - Not less than five (5) acres
- ii. Lot Area - Two thousand (2000) square feet.
- iii. Lot width - Twenty (20) feet.
- iv. Density - Not more than ten (10) units per acre.
- v. Distance between buildings - Not less than 25 feet.
- vi. Units in row - Six (6), maximum.

- vii. Setbacks
  - [a] Not less than 30 feet from an exterior road or tract boundaries and not less than 15 feet from a parking area.
  - [b] Not more than two abutting units shall have the same front setback. Variations in front setback shall not be less than three (3) feet.
- viii. Building lot coverage - Thirty (30) percent, maximum.
- ix. Impervious lot coverage - Fifty-five (55) percent, maximum.
- x. Building height: - Thirty-five (35) feet or three stories maximum.

(b) Apartments

- i. Tract area - Five (5) acres.
- ii. Lot width: - 100 feet
- iii. Front yard: - 30 feet
- iv. Side yards: - 25 feet each side
- v. Rear yard: - 30 feet
- vi. Building coverage - 40 percent, maximum
- vii. Impervious surface: - 60 percent, maximum
- viii. Building height: - 45 feet or 4 stories, maximum
- ix. Required offset - Not more than 2 adjacent units with same setback. Offset of at least 4 feet is required.

## **1406-A. Special Development Regulations**

The following regulations shall apply all permitted uses in the IHCO. Additionally, any permitted uses in the IHCO shall also meet the requirements of any special development regulations of the underlying zoning district. If there is a conflict with the special development regulation of the underlying zoning district the requirements below shall take precedence.

1. Screening and Landscaping
  - a. Screening shall comply with the provisions of Section 2008.
  - b. Landscaping shall comply with Section 2009.
  - c. Landscaped area requirements shall be those of the underlying zoning district, as noted in Section 2009.3(b).
  
2. Interior Circulation, Access and Traffic Control
  - a. The entrance road from the exterior roadway that is a major arterial shall have a cartway not less than thirty-six (36) feet wide for at least two hundred (200) feet from the point of entrance into the site.
  - b. The interior circulation on a lot or tract shall be designed so that no driveway or street providing parking spaces shall be used as a through street. If parking spaces are indicated by lines with angles other than ninety (90) degrees, the traffic lanes shall be restricted to a one-way flow to permit head-in parking. No driveway or street used for interior circulation shall have traffic lanes less than twelve (12) feet in width.
  - c. Areas provided for loading and unloading of delivery trucks and other vehicles and for the servicing of shops by refuse collection, fuel and other service vehicles shall be adequate in size and shape be so arranged that they may be used without blockage or interference with the use of access ways or automobile facilities.
  - d. All access ways to any public street or highway shall be located at least two hundred (200) feet from the intersection of any two (2) street lines and shall be designed in a manner conducive to safe ingress and egress. Where possible, access points should be located on local streets, rather than major streets or highways.
  - e. No plan or proposal shall be approved which is likely to create traffic hazards endangering the public safety. Safety requirements that may be imposed, where appropriate in such a review, shall include traffic control devices, acceleration lanes or deceleration lanes, turning lanes, traffic and lane markings and signs.
  - f. A traffic impact study of the site shall be required for new development as

a condition of approval in cases where deemed necessary by the Commissioners.

3. Pedestrian Standards

- a. An on-site pedestrian circulation system must be provided, which connects the parking areas and the structures on the site. The circulation system must be hard-surfaced and be at least five (5) feet wide. Where the system crosses driveways, parking areas and loading areas, the system must be clearly identifiable, through the use of striping, elevation changes, speed humps, or a different paving material. The on-site pedestrian circulation system must be appropriately lighted so that employees, residents and customers can use it at night.
- b. The applicant is encouraged to connect the pedestrian circulation system to other areas of the site such as a parking lot and any pedestrian amenities, such as plazas and resting areas.

4. Storage and Display

- a. Permanent outside storage areas shall be screened by opaque ornamental fencing, walls or evergreen planting so that they can't be seen from adjoining streets or parking areas at ground level.

5. Building Design

- a. All buildings shall be designed according to a unified architectural scheme.
- b. All pedestrian entrances shall be paved with an all-weather surface. Concrete curbing shall be provided to separate parking, access, streets and driveways.
- c. All signs shall be designed so as to be harmonious and consistent in terms of size, design and color scheme, with those of nearby uses or buildings. Also see Article 23, Signs.
- d. Design plans must be approved by the Township Commissioners upon the recommendation of the Township Engineer.

6. Lighting

All parking areas, driveways and loading areas shall be provided with a lighting system so as to adequately meet the needs of the area. All direct lighting shall be completely shielded from traffic on any driveway or street and from any residential district.

7. Refuse

All refuse shall be contained in vermin proof containers that shall be screened from public view. Trash receptacles for pedestrian use are exempt.

8. Signs

Signs shall comply with the applicable provisions of Article 23, Signs and with the relevant provisions below:

a. Uses permitted by right:

- (1) Research laboratories, business or trade schools, banks and other financial institutions shall comply with the sign regulations of the C-4 Commercial district as listed in Article 23, Signs.
- (2) Electronic, data processing, telecommunications and software establishments shall comply with the sign regulations of the IB Industrial-Business district as listed in Article 23, Signs.
- (3) Museums, recreation facilities, water transportation facilities and trails shall comply with Article 23, Signs and the specific regulations below:
  - (a) Permitted signs shall be wall signs, and freestanding signs.
  - (b) Size of wall signs shall not exceed one (1) square foot of sign area for each two (2) feet of building width.

b. Uses permitted by Special Exception

As per sign regulations applicable to the underlying district and applicable provisions of Article 23, Signs.

c. Uses permitted by Conditional Use permit

These uses shall employ the sign regulations of the C-3 Commercial district as per Section 2304(4) in Article 23, Signs.

**1407-A. Review of Special Exceptions**

Where the Zoning Hearing Board considers a proposal for a special exception under this IHCO district, the following conditions shall apply.

1. Applicable provisions of Article 21, Standards for Standards and Procedures for Special Exceptions and Conditional Uses and Article 26, Zoning Hearing Board, as now exists or may be adopted in the future.
2. Applicable provisions of Article 24, Performance Standards; Article 22, Parking; relevant provisions of 1406-A (2); Article 23, Signs, and Section 1407-A (6) and other

applicable provisions of the zoning ordinance.

3. The application fee for a special exception permit as established by the Township shall be paid.
4. A public hearing shall be held as required by Section 61-10, Section 908 of the Pennsylvania Municipalities Planning Code as amended and Article 26, Zoning Hearing Board, as now exists or may be adopted.

**1408-A. Review of Conditional Uses**

Where the Board of Commissioners considers a proposal for a conditional use permit this IHCO district all of the relevant provisions of Article 21, Procedures and Standards for Special Exceptions and Conditional Uses shall apply.

**1409-A. Routes 291/13 Corridor and East Coast Greenway**

Landscaping, signage, and similar features within the Routes 291/13 Corridor and East Coast Greenway shall be consistent with the Delaware County Industrial Heritage Route 291/13 Beatification and Greenway Plan of 2002 and the Delaware County Route 291/13 Landscaping and Signage Project of 2005, as they relate to land within these Corridors in Tinicum Township.



## **ARTICLE 15:**

### **W-1 WATERFRONT DISTRICT**

#### **1500. District Purposes**

The purposes of this district are to utilize the unique characteristics and opportunities of the Delaware River waterfront by providing for a variety of water-dependent and water-related uses and by limiting the size and scope of development. District provisions are also designed to preserve and encourage the historical, cultural, recreational, environmental and tourist-related features and potential of the district; to provide for public access to the river and preserve scenic river views; and to protect the stability, town character and quality of life in adjoining residential neighborhoods. Standards are provided to assure well-balanced development that is limited in scope and intended to limit impacts such as those of traffic, noise, glare, and parking, to preserve waterfront character, natural features and protect adjoining neighborhoods.

It is also intended that gambling activities shall not be permitted in this district.

#### **1501. Uses Permitted by Right**

A building may be constructed, altered or used, and a lot or premises may be used for only one or more of the following uses:

1. Waterfront retail store or shop, waterfront restaurant and/or bar as defined in Article 2.
2. Personal service shop.
3. Service, sales, repair, and storage of boats, yachts, and marine equipment.
4. Ferry or similar marine transport facility, not exceeding a capacity of 30 passengers.
5. Marina, yacht club and seaplane base.
6. Museum.
7. Park or recreation area.
8. Single family detached dwellings, subject to provisions of Section 1506.1, except that building height shall not exceed 35 feet.
9. Buildings may be arranged in attached or detached fashion on individual lots or as a shopping center or Planned Unit Development (PUD).

#### **1502. Uses Permitted by Special Exception**

The following uses shall be permitted by special exception only, subject to Articles 21 and 26.

1. Marine wholesale.

2. Bed and breakfast inn, subject to Section 2113.

### **1503. Conditional Uses**

The following uses shall be permitted only by conditional use permit, subject to Article 21.

1. Fabrication of marine products.
2. Office building, subject to Section 2110.
3. Hotel, subject to Section 2124.
4. Townhouse, subject to Section 2127.
5. Apartment building, subject to Section 2128.

### **1504. Accessory Uses and Structures**

1. All accessory uses and structures permitted in Section 303 of the R-1 district and Section 803 of the C-1 district.
2. Trash dumpsters and other trash receptacles provided that they are screened from the principal dwelling on the lot and from public streets by an opaque fence or planted visual screen, which shall be not less than six (6) feet high.
3. Offices, incidental to permitted uses.
4. Piers, floats, docks, pilings or similar structures
5. Any accessory use on the same lot with and customarily incidental to the principal building or use and not detrimental to the neighborhood.

### **1505. Special Development Regulations**

1. Public Access
  - a. Public access to the water, as defined in Article 2, may be provided by a property owner or developer of waterfront property. Where provided, such access shall be via a walkway to the Delaware River.
  - b. Such access shall be in form of a pathway intended primarily for pedestrians but with capacity to accommodate bicycles.
  - c. Such walkway shall be not less than six (6) feet wide.
  - d. Maintenance of the walkway shall be the responsibility of either the owner/developer or may be dedicated to the Township. In order for the Township to accept dedication, the walkway must comply with local standards for such walkways. The Township shall establish such standards in accordance with the recommendations of the Township Engineer.

2. Bonuses for Providing Public Access

- a. Owners or developers of commercial uses who provide public access as per 1505.1 above, shall be permitted an increase in impervious surface of 10 percent over that permitted in Section 1506.1 or 1506.2 below, of which impervious surface 50 percent may be devoted in building coverage.
- b. Owners or developers of townhouses who provide public access ways to the Delaware River shall be permitted an increase in density from the maximum of 10 units per acre required in Section 21 to 12 units per acre.

3. Bonuses for Reuse of Historic Resources

Owners or developers of historic properties and buildings that are on the National Register of Historic Places, or have been determined to be eligible for National Register status, who reuse these buildings or properties with uses permitted in Sections 1501, 1502 or 1503 shall be permitted either a 5 percent increase in density or an increase in impervious surface/building coverage as noted in Section 1505.2.a whichever is the more appropriate bonus. The Township planning commission, upon consultation with the Township Engineer, shall determine which bonus shall be permitted.

4. Views

- a. The Township shall identify view corridors in Waterfront districts.
- b. In cases where proposed structures would obstruct defined view corridors, the owner or applicant shall modify the size, location, height or other features of such proposed structures to prevent or mitigate the creation of a potential obstruction in view corridors.
- c. Where an alternate location on a lot is possible, parking shall not be placed in view corridors.
- d. Where an alternate location on a lot is possible, structures shall not be placed at the riverfront terminus of public streets.

5. Extension of Districts

As shown on the Tinicum Township Zoning Map, the boundaries of this district, and every other district that abuts the Delaware River, shall extend 500 feet from the mean low water line into the River.

**1506. Area and Bulk Regulations**

Unless noted otherwise, the following shall be minimum requirements:

1. Individual Lots

- a. Lot area - 10,000 square feet.
- b. Lot width - 75 feet
- c. Front yard - 45 feet.
- d. Side yard - 15 feet on each side of the principal building or group of attached buildings.
- e. Rear yard - 40 feet.
- f. Setback from Mean High Water Mark - 40 feet
- g. Building coverage - 35 percent, maximum
- h. Impervious surface - 55 percent, maximum
- i. Landscaped area - 40 percent.
- j. Building height - 50 feet, maximum.
- k. Building width and the length and width of Length proposed buildings shall not exceed 100 feet in either dimension (length and width), in order to comply with the size and scope limitation as set forth in Section 1500.

2. PUD/Shopping Center Development

Several buildings may be constructed on a tract. Unless noted otherwise, the following shall be minimum requirements:

- a. Tract area - 1.5 acres.
- b. Distance between Buildings - 30 feet.
- c. Distance from exterior road - 50 feet.
- d. Distance from parking area - 20 feet.
- e. Distance from property lines and mean high water mark - 40 feet.
- f. Building coverage - 30 percent, maximum.
- g. Impervious surface - 55 percent, maximum.
- h. Landscaped area - 45 percent
- i. Building height - 50 feet, maximum.
- j. Building dimensions, the length and width of proposed buildings or buildings

with proposed addition shall not exceed 100 feet in either dimension, in order to comply with the size and scope limitation as set forth in Section 1500.



## **ARTICLE 16:**

### **W-1A WATERFRONT DISTRICT**

#### **1600. District Purposes**

The purposes of this district are to accommodate the existing industrial uses and provide for new industrial uses. It is also the purpose of the district to allow all uses permitted in the W-1 district.

It is also intended that gambling activities shall not be permitted in this district.

#### **1601. Uses Permitted by Right**

A building may be erected, altered or used and a lot may be used, for only one or more of the following uses:

1. All uses permitted in the W-1 district.
2. Manufacturing, processing, and assembly of residential, commercial and small industrial electrical appliances, products, supplies or equipment; electrical or electronic instruments and devices such as precision instruments and measuring and control devices, dental, drafting and similar scientific and professional instruments; optical goods, and equipment, clocks, watches, jewelry, cameras and photographic equipment and similar products.
3. An industrial park designed to accommodate or comprised of a group of any of the uses permitted in this district.

#### **1602. Uses Permitted by Special Exception**

The following uses shall be permitted only by special exception, subject to the applicable provisions of Articles 21 and 26.

1. Manufacture, packaging, compounding, treatment, assembly, processing, and distribution of items or products from previously prepared materials, provided that all aspects of the use or activity shall be carried out within an enclosed building.
2. Metal processes, including metal finishing, grinding, cutting, polishing and heat treatment.
3. Processing, packaging, and distribution of products, provided that all uses shall be carried on in an enclosed building.

#### **1603. Accessory Uses and Structures**

1. Off-street parking and loading, subject to Article 22.
2. Storage building or enclosed outdoor storage area provided it is screened as required by Section 2008.

3. Trash dumpsters and other trash receptacles provided that they are screened from the principal building on the lot and from public streets by an opaque fence or planted visual screen which shall be not less than six (6) feet high.
4. Offices incidental to permitted uses.
5. Piers, floats, docks, pilings or similar uses.
6. Small Collection Facility for recycling, subject to Section 2010.
7. Satellite antenna, subject to Section 2006.
8. Restaurant, cafeteria, or snack bar for the use and convenience of employees or customers of any of the uses permitted in this district.
9. Sign, subject to Article 23.
10. Recreation area for employees.
11. Living quarters for a watchman or caretaker.
12. Any accessory use on the same lot with and customarily incidental to the principal use on the property and not detrimental to the area.

#### **1604. Special Development Regulations**

1. As required in Section 1505 of the W-1 district.
2. As shown on the Tinicum Township Zoning Map, the boundaries of this district, and every other district that abuts the Delaware River, shall extend 500 feet from the mean low water line into the River.

#### **1605. Area and Bulk Regulations**

Unless specifically noted otherwise, the following shall be minimum requirements:

1. All area and bulk requirements of the W-1 Waterfront district (Section 1506) shall apply.

## **ARTICLE 17:**

### **W-2 WATERFRONT DISTRICT**

#### **1700. District Purposes**

The purposes of this district are to provide for the retention, preservation and enhancement of existing and potential open space, recreation and conservation areas, both land and water, such as the John Heinz Wildlife Refuge at Tinicum, Little Tinicum Island, portions of the Delaware River, and smaller areas adjacent to or near the Delaware River, Darby Creek and other waterways. Other purposes are to assure the preservation of significant natural resources such as marshlands, wetlands and wooded areas and establish reasonable controls and use limitations to maintain the benefits of open space, recreation, conservation and wildlife refuge areas. District regulations are intended to ensure that uses will have no adverse impact on natural amenities and resources located in the district or nearby residential areas.

It is also intended that gambling activities shall not be permitted in this district

#### **1701. Uses Permitted by Right**

A building may be erected, altered or used and a lot may be used for only one or more of the following uses:

1. Passive open space uses such as a wildlife refuge, forest preserve, nature center, arboretum, and similar uses.
2. Activities such as walking, hiking, bicycling, picnicking, fishing, boating, ice skating, and similar uses.
3. Daytime camping, provided that all applicable regulations of the facility are followed, such as registration, obtaining permits etc.
4. Environmental educational building or center
5. Stables
6. Any use of the same general character as the above permitted uses, provided such use is consistent with the intent/purpose of the district and not detrimental to the surrounding area.

#### **1702. Accessory Uses and Structures**

1. Parking and Signs as per Articles 22 and 23, respectively.
2. Quarters for guard or other security, maintenance or similar personnel.
3. Any accessory use on the same lot with and customarily incidental to any of the uses permitted in Section 1701.

### **1703. Special Development Regulations**

1. Open Space Character

Buildings or other structures shall generally not encroach upon flood plains, stream valleys, wooded areas sensitive areas and shall be planned, designed and located to minimize any disturbance of these sensitive areas or features. However, buildings or structures may encroach upon such sensitive features where they are specifically designed and constructed to function properly in such areas.

2. Use of Appropriate Materials

Except as stated in section 1704.5, parking areas, driveways and similar areas shall be covered with pervious materials, consistent with the open space character of this district.

3. Access.

Public access easements, deed restrictions or other legal mechanisms to permit access to or through privately-owned land for such purposes as walking, hiking, fishing, bicycling and similar activities are strongly encouraged.

4. Commercial Activity Limitation

No commercial activity shall be permitted except for charging admission, the sale of refreshments, boat rentals or such other purposes that are clearly subordinate and incidental to a use or activity permitted in this district.

5. Extension of District

As shown on the Tinicum Township Zoning Map, where this district abuts the Delaware River, its boundaries shall extend a distance of 500 feet from the mean low water line into the River.

### **1704. Area and Bulk Regulations**

Unless specifically stated otherwise, the following shall be minimum requirements:

- |    |                    |   |   |
|----|--------------------|---|---|
| 1. | Lot area           | - | 10 acres  |
| 2. | Lot width          | - | 200 feet  |
| 3. | Setbacks           | - | 100 feet from all property lines and public streets |
| 4. | Building coverage  | - | 2 percent, maximum.                                 |
| 5. | Impervious surface | - | 5 percent, maximum.                                 |
| 6. | Height             | - | 30 feet, maximum                                    |



**ARTICLE 18:**  
**OR OUTDOOR RECREATION DISTRICT**

**1800. District Purposes**

The purposes of this district are to provide areas and facilities for active and passive outdoor recreation such as game courts and play fields as well as conservation, nature study and resource protection areas. These areas are intended to be located generally within or near residential and commercial neighborhoods.

**1801. Uses Permitted by Right**

A building may be erected, altered or used and a lot may be used for only one or more of the following uses:

1. Active recreational uses such as ball fields, playgrounds, tot lots, game courts, swimming pools, and facilities for other similar sports and activities.
2. Passive recreational uses such as parks, nature study areas and trails.
3. Conservation uses such as woodlands, open fields and related resources.
4. Temporary structures in connection with temporary events such as festivals, carnivals and similar events.

**1802. Accessory Uses and Structures**

1. Off-street parking, subject to Article 22.
2. Signs, subject to Article 23.
3. Service and storage buildings, structures or facilities to support the permitted activities and uses shall be permitted in connection with the permitted principal uses. These facilities may include cabanas, spectator stands, concessions, equipment buildings and similar accessory uses.

**1803. Special Development Regulations**

1. Active play fields, courts or similar uses as well as concession stands or other temporary establishments serving food or drink shall be placed not less than 50 feet from a residential structure.
2. Trash receptacles shall be provided at entrances, spectator stands, and other areas where large groups of people gather at facilities such as play fields, courts, parks and other recreation venues.
3. Food service facilities at sporting and other events shall be limited to snack bars or concession stands, the operation of which shall be limited to the hours when sporting and other events are being held.

**1804. Area and Bulk Regulations**

1. No building or structure shall exceed 25 feet in height.
2. There shall be a distance of not less than 50 feet between play equipment or benches and the nearest dwelling.
3. A planted visual screen, as defined in Article 2, shall be placed at the boundary line between a use permitted in Section 1801 and a residential structure.



**ARTICLE 19:**  
**SPECIAL USE DISTRICT**

**1900. District Purposes**

The purposes of this district are to provide for aviation facilities and establishments that are part of or related to the operations of the Philadelphia International Airport and to allow a variety of accessory uses normally present at airports or customarily incidental to the permitted uses.

**1901. Uses Permitted by Right**

A building may be erected, altered or used and a lot may be used for only one or more of the following uses:

1. Motel, hotel, subject to, Section 905, Special Development Regulations of the C-2 district and the Area and Bulk Regulations of Section 1904 below.
2. Office building, subject to, Section 905, Special Development Regulations of the C-2 district and the Area and Bulk Regulations of Section 1905 below.
3. Warehouses
4. Auto body shop
5. Communications antennas mounted on an existing public utility transmission tower, building or other structure, and communications equipment buildings.

**1902. Conditional Uses**

The following uses shall be permitted only as conditional uses, subject to the provisions of Article 21

1. Airport dependent uses, as defined in Article 2 such as:
  - a. Hangars
  - b. Aircraft deicing facilities
  - c. Aircraft repair facilities
  - d. Cargo transfer facilities
  - e. Runways
  - f. Airport dependent uses of same general character as those listed directly above in this subsection.

2. Other Uses
  - a. Retail stores
  - b. Personal service shops
  - c. Restaurants, bars and clubs
  - d. Banks

**1903. Accessory Uses and Structures**

Any accessory uses normally associated with uses listed above in Sections 1901 and 1902.

**1904. Special Development Regulations**

1. Applicants for uses that require the presence of an aircraft within 100 feet of the boundary of the Special Use district shall erect sound barriers at or near the district boundary. These sound barriers shall have a minimum height of ten (10) feet.
2. As shown on the Tinicum Township Zoning Map of 2020, where this district abuts the Delaware River, its boundaries shall extend 500 feet from the mean low water line into the River.

**1905. Area and Bulk Regulations**

Unless specifically stated otherwise, the following shall be minimum requirements:

- |    |                          |   |                         |
|----|--------------------------|---|-------------------------|
| 1. | Lot area                 | - | 4 acres                 |
| 2. | Lot width                | - | 200 feet                |
| 3. | Building coverage        | - | 33 1/3 percent, maximum |
| 4. | Impervious surface       | - | 66 2/3 percent, maximum |
| 5. | Landscaping              | - | 20 percent              |
| 6. | Setback                  |   |                         |
|    | a. From public streets   | - | 40 feet                 |
|    | b. Side or rear setbacks | - | 75 feet                 |

## **ARTICLE 19-A:**

### **ADULT ENTERTAINMENT REGULATIONS FOR C-4A COMMERCIAL-INDUSTRIAL DISTRICT**

#### **1900-A. Legislative Intent and Purposes**

1. It is hereby determined that adult entertainment uses, as defined by this Article 19-A, tend to bring with them secondary concerns that impact on the health, safety and general welfare concerns of the Township of Tincum. These associated concerns include difficulties for law enforcement, municipal maintenance, noise, trash, traffic and parking congestion, deleterious effects on business and residential property values and increased crime, particularly corruption of the morals of minors and prostitution, and encourage residents and businesses to move elsewhere.
  
2. With these goals in mind, the Township of Tincum is amending the Zoning Ordinance to restrict or limit the location of where said activities can locate within the bounds of the Township of Tincum and to establish reasonable and uniform regulations of commercial establishments. The Township of Tincum has concluded that a permitting and/or licensing process is a legitimate and reasonable means of accountability to ensure that the operators of adult entertainment uses comply with reasonable regulation and do not knowingly allow their establishments to be used as places of illegal sexual activity or solicitation. The Township of Tincum also does not intend by this Article 19-A to affect or suppress any activities protected by the First Amendment, but instead to address these secondary effects.

#### **1901-A. Definitions. As used in this section, the following terms shall have the meanings indicated:**

##### **ADULT ENTERTAINMENT**

Live or non-live entertainment containing specified sexual activities or displaying or presenting specified anatomical areas. This definition is a broad overall definition which includes the activities and uses of an adult cabaret, adult dance hall, adult club, adult bar, adult tavern, adult materials sales, adult mini-motion-picture theater, adult motion picture theater, peep shows and sexual encounter center, all as part of its definition for adult entertainment.

##### **ADULT ARCADE**

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-producing devices are maintained to show images to five or fewer persons per machine at any one time or where the image is so displayed or distinguished or characterized by depicting or describing specified sexual activities or specified anatomical areas.

##### **ADULT CABARET, ADULT DANCE HALL, ADULT CLUB, ADULT BAR, ADULT TAVERN, NIGHTCLUB, RESTAURANT OR SIMILAR COMMERCIAL ESTABLISHMENT OFFERING ADULT ENTERTAINMENT**

Any cabaret, dance hall club, tavern, bar, nightclub, restaurant or similar commercial establishment

offering entertainment used for presenting material distinguished or characterized by an emphasis on matter depicting or describing specified sexual activities or specified anatomical areas, for observation by patrons therein, whether or not liquor is sold on the premises. Such presentation or material may be live or through films, motion pictures, videocassettes, slides or other photographic reproduction depicting or describing specified sexual activities or specified anatomical areas.

#### ADULT MATERIALS RENTAL AND SALE

1. Book video, magazine rentals, other printed matter, photographs, films, motion picture video or production slides or other visual representation and/or sales where the locations offer the showing or displaying of matter depicting or describing specified sexual activities or specified anatomical areas for observation by patrons on the premises. This does not apply to the availability for sale of any material displayed in such a way that only the names of the book or magazine appears. This also does not include rentals and/ or sales for use of such materials off the premises of said establishment.
2. Instruments, devices or paraphernalia which are used for presenting material distinguished or characterized by an emphasis on matter depicting or describing specified sexual activities or specified anatomical areas.
3. Such a commercial establishment as listed in Subsections 1 and 2 above may have other principal business purposes that do not involve the offering for sale or rental of material depicted or describing specified sexual activities or specified anatomical areas and still be characterized as adult material sales. Such other business purposes will not serve to exempt such commercial establishments from being categorized as adult material sales so long as one of its principal business purposes is the offering for sale or rental for consideration in specified materials used for presenting material distinguished or characterized by an emphasis on matter depicting or describing specified sexual activities or specified anatomical areas.

#### ADULT MINI-MOTION-PICTURE THEATER

Any enclosed or semi-enclosed or unenclosed building which houses a commercial establishment with the capacity for fewer than 50 persons used for presenting material distinguished or characterized by an emphasis on matter depicting or describing specified sexual activities or specified anatomical areas, for observation by patrons therein.

#### ADULT MOTEL

A hotel, motel or similar commercial establishment which offers accommodation to the public for any form of consideration; provides patrons of closed circuit television transmissions, films, motion pictures, videocassettes, slides or other photographic reproduction which are used for presenting material distinguished or characterized by an emphasis on matter depicting or describing specified sexual activities or specified anatomical areas.

#### ADULT MOTION-PICTURE THEATER

Any enclosed or semi- enclosed or unenclosed building which houses a commercial establishment with the capacity of 50 or more persons used for presenting material distinguished or characterized by an emphasis on matter depicting or describing specified sexual activities or specified anatomical

areas for observation by patrons therein.

#### APPLICANT

A person who applies by filling out an application for a permit for an adult entertainment business.

#### CERTIFICATION

A department and/or agency of the Township, after inspection of the premises for adult entertainment, writes a report to the Code Zoning Officer regarding compliance or noncompliance.

#### ESTABLISHMENT

1. The opening or commencement of any adult entertainment as a new business;
2. The conversion of an existing business, whether an adult entertainment, to an adult entertainment business;
3. The additions of any adult entertainment business to any other existing adult entertainment business; or
4. The relocation of any adult entertainment business.

#### NUDITY or STATE OF NUDITY

The appearance of the specified anatomical areas without any coverings on the body area.

#### PEEP SHOWS

Any enclosed or semi-enclosed or unenclosed building/enclosure which houses a commercial establishment with the capacity for one person used for presenting material distinguished or characterized by an emphasis on matter depicting or describing specified sexual activities or specified anatomical areas, for observation by patrons therein.

#### PERMITTEE and/or LICENSEE

A person or persons to whom a permit and/or license to operate an adult entertainment has been issued, as well as the individual or individuals listed as an applicant on the application for permit and/or license.

#### PERSON

An individual, proprietorship, partnership, corporation, association or other legal entity.

#### SEMINUDE or SEMINUDITY

State of dress in which clothing partially or opaquely covers specified anatomical areas.

#### SEXUAL ENCOUNTER CENTER

A business or commercial enterprise that as one of its primary business purposes offers for any form of consideration:

1. Physical contact in the form of wrestling or tumbling between persons of opposite sex; or
2. 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 is seminude.

#### SPECIFIED ANATOMICAL AREAS

1. Human genitals, pubic region, anus;

2. Buttocks;
3. Female breast(s) below a point immediately above the top of the areola and/or female breast(s) partially or completely covering the areola; or
4. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

#### SPECIFIED SEXUAL ACTIVITIES

1. Human genitals in state of sexual stimulation or arousal;
2. Acts or simulated acts of human masturbation, sexual intercourse, sodomy or oral copulation;
3. Fondling or other erotic touching of human genitals, pubic region, buttocks, anus or female breast(s); or
4. Excretory functions as part of or in connection with any of the activities set forth in Subsections 1 through 3 above.

#### TRANSFER OF OWNERSHIP OR CONTROL

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

#### **1902-A. Uses.**

1. Except when authorized by special exception in the C-4A Commercial-Industrial Districts, as more fully set forth and described herein, adult entertainment uses, as defined and described in Subsection B, Definitions, are prohibited uses, and no lot or premises shall be used for said use in residential districts, BCD Business Center Districts, Special Use Districts, Commercial Districts, H Industrial Districts and or Waterfront or Outdoor Recreation Districts.
2. Only permitted in the C-4A Commercial-Industrial Districts, when authorized as a special exception, the land, buildings or premises shall be by special exception for the following uses:
  - a. Adult arcade.
  - b. Adult cabaret, adult dance hall, adult club, adult bar, adult tavern, nightclub, restaurant or similar commercial establishment having adult entertainment.
  - c. Adult entertainment.
  - d. Adult material rental and sales.
  - e. Adult mini-motion-picture theater.

- f. Adult motel.
  - g. Adult motion-picture theater.
  - h. Peep shows.
  - i. Sexual encounter center.
3. The above additional uses are allowed by permit only in the C-4A Commercial-Industrial Districts if the property line of this use is greater than 650 feet from the property lines of a:
- a. School;
  - b. House of worship;
  - c. Township-owned park;
  - d. Residential district; or
  - e. Any other adult use establishment as listed above.
4. For purposes of this Article 19-A, measures shall be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structure used as a part of the premises where an adult entertainment business is conducted, to the nearest property line of a school, house of worship, Township-owned park and/or residential district.
5. Nonconforming uses. The lawful use of a building existing at the effective date of this Article 19-A, or authorized by a building or occupancy permit issued prior hereto may be continued although such use does not conform to the provisions of this Article 19-A, but such use must conform to the operating regulations of this Article 19-A, including permit process, inspection, fee(s), suspension and revocation provisions, transfer of permit provisions, parking, loading and unloading and access provisions, injunction, penalties and all other provisions of this Article 19-A.

**1903-A. Permit process.**

The Zoning Officer, upon submission to the Township of an application, shall present the applicant with a building permit for adult entertainment business(es), as follows:

- 1. In the C-4A Commercial-Industrial Districts, a permit shall be issued only if the applicant is successful in obtaining a special exception for the proposed type of adult entertainment and the application successfully meets all health, use and occupancy and/or building permits requirements as defined in the pertinent ordinances and their amendments/revisions and the location of said use is demonstrated to comply with Subsection C above.

2. The application for a permit to operate an adult entertainment business must be made on the form provided by the Zoning Officer of the Township. The application must be accompanied by a sketch or diagram showing the configuration of the premises including a statement of the total floor space occupied by the business. The sketch or diagram need not be professionally prepared but at least be drawn to a designated scale or drawn with marked dimensions on the interior and exterior of the premises to an accuracy of plus or minus six inches.
3. The applicant must be qualified according to the provisions of this Article 19-A and the premises must be inspected and found to be in compliance with the law by the Zoning Officer, the Fire Marshal and the police.
4. If a person wishes to operate an adult entertainment business as an individual, he (she) must sign the application for permit as an applicant. If a person who wishes to operate an adult entertainment business is other than an individual, each individual that has a 10% or greater interest in the business must sign the application for permit as an applicant. If a corporation is listed as owner of an adult entertainment business or as the entity which wishes to operate such a business, each individual having a direct or indirect interest of 10% or greater in the corporation must sign the application for permit as an applicant.
5. The fact that a person possesses other types of Township permit(s) does not exempt the person from the requirement of obtaining an adult entertainment business permit.
6. The Zoning Officer shall approve the issuance of a permit to an applicant within 30 days after the applicant is awarded a special exception by the Zoning Hearing Board of the Township of Tinicum and will not approve a permit if the Zoning Officer finds one or more of the following to be true:
  - a. Applicant is under 18 years of age.
  - b. Applicant or applicant's spouse is overdue on his or her payment to the Township of taxes, fees, fines or penalties assessed against him or her or imposed upon him or her in relation to an adult entertainment business.
  - c. Applicant has failed to provide information reasonably necessary for issuance of the permit or has falsely answered a question or request for information on the application form.
  - d. Permits to be used for the adult entertainment business has been reviewed and has been disapproved by either the Zoning Officer, the Fire Marshal or the police as not being in compliance with the applicable laws and ordinances.
  - e. The permit fee required by this Article 19-A has not been paid or the permit fees for health, use, occupancy and/or building permits have not been complied with or the fees were not paid before.

- f. Applicant of the proposed establishment is in violation of or is not in compliance with any of the provisions of this Article 19-A.
7. 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 adult entertainment business. The permit shall be posted in a conspicuous place at or near the entrance of the adult entertainment business so it can be read at any time.
8. The permit, if granted, shall have a life of one year from the date of issuance. At that time, the applicant must file another application before the expiration of the permit in order to continue doing business without interruption. Application for renewal should be made at least 30 days before the expiration date. When an application is made less than 30 days before the expiration date, the pendency of the application will not prevent the expiration of the permit. Again, all of the above rules listed in this section and the entire article (ordinance) must be complied with as if a new permit is being issued.
9. The Zoning Officer, Fire Marshal and the police shall complete their certification that the premises are in compliance or not in compliance within 20 days of receipt of the application by the Zoning Officer. This certification shall be promptly presented to the Zoning Officer.
10. If the Township Zoning Officer denies a renewal of a license, the applicant shall not be issued a permit for one year from the date of denial, except that after 90 days of lapse since the date of denial, the applicant may be granted a permit if the Zoning Officer finds that the basis for denial of the renewal permits has been corrected or abated.

**1904-A. Inspection.**

1. An applicant or permittee shall permit a representative of the police, Fire Marshal, Zoning Officer or other Township departments or agencies to inspect the premises of an adult entertainment business for the purpose of ensuring compliance with the law at any time the adult entertainment business is occupied or open for business. These inspection departments/agencies shall certify, in writing, to the Code Enforcement Officer whether compliance is achieved.
2. A person who operates an adult entertainment business or his agent or employee violates the Zoning Ordinance of the Township of Tinicum if he refuses to permit such lawful inspection of the premises at any time it is occupied or open for business.

**1905-A. Fees.**

The annual fee for an adult entertainment business permit is \$500.

**1906-A. Suspension of permit.**

The Zoning Officer shall suspend a permit for a period not to exceed 30 days if he determines that

a permittee or an employee of the permittee has:

1. Violated or is not in compliance with any section of this Article 19-A or the Zoning Ordinance.
2. Engaged in excessive use of alcoholic beverages while on the adult entertainment premises.
3. Refused to allow an inspection of the adult entertainment premises as authorized by this Article 19-A.

**1907-A. Revocation of permit.**

1. The Zoning Officer shall revoke a permit if a cause of suspension set forth in Subsection G occurred and the permit has been suspended within the preceding 12 months.
2. The Zoning Officer shall also have the power to revoke a permit if he determines that:
  - a. A permittee or any of the person specified has given false or misleading information or materials submitted to the Township during the application process.
  - b. A permittee or employee of the permittee has knowingly allowed prostitution on the premises as defined by the Pennsylvania Crime Codes.
  - c. A permittee or employee of the permittee knowingly operated the adult entertainment business during a period of time when the permittee's permit was suspended or revoked.
  - d. A permittee or employee of the permittee knowingly allowed any action of sexual intercourse, sodomy, oral copulation, masturbation or other sexual conduct to occur in or on the permitted premises.
  - e. A permittee is delinquent in payment of the Township or state for any taxes or fees past due.
3. When the Zoning Officer revokes the permit, the revocation shall continue for one year and the permittee shall not be issued an adult entertainment business permit for one year from when the date of revocation became effective. If, subsequent to revocation, the Zoning Officer finds that the basis for the revocation has been corrected or abated, the applicant may be granted a permit if at least 90 days have elapsed since the date the revocation became effective.
4. After denial of an application or denial of a renewal of an application or suspension or revocation of a permit, the applicant or licensee or permittee may seek prompt judicial review of such administrative action in any court of competent jurisdiction. The administrative action shall be promptly reviewed by the court.

**1908-A. Transfer of permit.**

A permittee shall not transfer his permit to another person or business entity, nor shall a permittee operate an adult entertainment business under the authority of a permit at any place other than the address designed within the application.

**1909-A. Parking, loading and unloading and access regulations.**

Parking, loading and unloading and access regulations shall apply as set forth, enumerated and provided in § 61-5.2B(5), Regulations for Business Center District, excluding Subsection B(5)(a)[9].

**1910-A. Exemption.**

It is a defense to prosecution under this Article 19-A that a person appearing in a state of nudity did so in a modeling class operated as follows:

1. By a propriety school licensed by the Commonwealth of Pennsylvania or a college, junior college or university supported entirely or partly by taxation.
2. By a private college or university which maintains or operates education programs in which credits are transferable to any college, junior college or university supported entirely or partly by taxation.

**1911-A. Injunction.**

A person who operates or causes to be operated an adult entertainment business without a valid permit or in violation of this Article 19-A, is subject to an action in equity or a suit for injunction, as well as citations for violations of the Zoning Ordinance.

**1912-A. Violations and penalties.**

For any and every violation of the provisions of this Article 19-A, the permittee, owner, tenant, general agent, managing company, realtor or contractor of a building or premises where such violation has been committed or shall exist, and the lessee or tenant of any building or premises where such violation has been committed or shall exist, and the owner, permittee, general agent or contractor, lessee or tenant of a building or premises in which part such violation has been committed or shall exist, and the owner, permittee, lessee, general agent, architect, builder, realtor, contractor or any other person who knowingly commits, takes part or assists in any such violation or maintains any building or premises in which any such violation shall exist shall be liable on conviction thereof to a fine or penalty not exceeding \$500, which shall ensure to the benefit and use of Tincum Township, with the cost of the suit, and in default of payment thereof, the Magisterial District Judge may, in his discretion, commit the offender to prison in the county jail for a period not exceeding 30 days for each and every offense; and whenever such person shall have been officially notified by Tincum Township or by service of a summons in a prosecution or in any other official manner that he is committing a violation, each day's continuance of such violation after such notification shall constitute a separate offense punishable by like fine or penalty.



**ARTICLE 20:**  
**GENERAL REGULATIONS**

**2000. Purpose**

The purpose of this Article is to set forth certain regulations and standards that are either common to all zoning districts or to more than one district.

**2001. Overall Requirements**

1. No building or structure, or part thereof, shall hereafter be erected, constructed or altered and no new use or change of use shall be made of any building, structure or land or part thereof, except in conformity with the provisions of this Ordinance.
2. Every principal building shall hereafter be built on a lot with frontage on a public or private street.
3. No lot or premises shall hereafter be subdivided or reduced in area or size in any manner that violates this Ordinance, unless a variance has been obtained from the Zoning Hearing Board.
4. It is the intent of this Ordinance to comply with the Year 2000 amendments to the Municipalities Planning Code, including Sections 603(f), 603 (g), 603 (h) and 603 (i), which require that a zoning ordinance:
  - a. May not unreasonably restrict forestry activities.
  - b. Shall protect prime agricultural land and may promote the establishment of agricultural security areas.
  - c. Shall provide for the protection of natural and historic features and resources.
  - d. Shall encourage the continuity of development and viability of agricultural operations
  - e. Shall provide for the reasonable development of minerals.

**2002. Projections into Required Yards**

No principal building or part thereof, shall be erected within, or shall project into any required yard in any district, except for unenclosed porches, decks, one-story bay windows and eaves. Chimneys, balconies, fire escapes, cornices or steps and none of these, except unenclosed decks or similar projects, shall encroach more than eighteen (18) inches into any required yard. In residential districts, such unenclosed decks may extend not more than seven (7) feet into required rear yards, provided that the edge of such decks is not less than 30 feet from the nearest adjacent dwelling. Unenclosed decks in residential districts may also extend into required side yards for not more than eighteen (18) inches, provided that the edge of such decks is not less than 20 feet from the nearest adjacent dwelling.

### **2003. Accessory Uses and Structures**

1. Accessory structures shall, except where specifically stated otherwise in this Ordinance, be located only in the side or rear yards.
2. In the case of corner lots, accessory structures shall not be placed closer to the side street than the principal building. However, fences and satellite antennas are exempted from this regulation.
3. Sheds and garages shall not exceed the following heights:
  - a. In residential districts - 15 feet
  - b. In C-1, C-2 and C-3 districts - 20 feet
  - c. In C-4, C-4A, I-B and HI districts - 50 feet
  - d. In other districts - 20 feet
4. Except for fences, the minimum setback for accessory structures shall be three (3) feet at both the side and rear lot lines, unless specifically stated otherwise in this Ordinance.
5. Accessory structures shall not be used for human habitation.
6. A private garage may be erected within a rear yard or side yard provided that the three (3) foot setbacks as noted in subsection 2003.4 above are maintained.
7. Only one (1) utility/storage shed shall be permitted on a lot.
8. Sheds shall have a floor area not exceeding 200 square feet.
9. Canopies will be permitted as a conditional use.

### **2004. Family-Based Child Day Care Homes**

Family-based child day care homes shall be permitted as an accessory use only in the R-1, R-2 and R-3 Residential districts, subject to the following requirements:

2. There shall be a fence, at least four (4) feet high, around all outdoor play areas.
3. The appearance and exterior design of the facility shall be compatible with the surrounding dwellings.
4. The facility shall display no sign, which is inconsistent with the character of the neighborhood and shall be subject to Article 23 relating to Signs.
5. Outdoor play activities shall be limited to the hours between 9am and 7pm.
6. Each facility must have the appropriate certificates as required by the Pennsylvania

Department of Public Welfare (DPW) that shall be prominently displayed in the main entrance of the facility. All day care homes must meet all current DPW regulations and any applicable Federal, State or local laws, ordinances and regulations, including building and fire safety codes.

7. The operator of the facility shall allow the Township Code Enforcement Officer (CEO) to enter the property at reasonable times subject to 24-hour notice, to inspect the facility for compliance with this Section and other applicable ordinances or regulations.

#### **2005. Private Swimming Pools**

1. Private swimming pools shall be permitted in the rear yard. Such pools shall also be permitted inside yards provided they are not placed or located in the required side yard area and there remains a distance of at least 15 feet between such pool and the side property line.
2. All swimming pools shall be located not less than ten (10) feet from the principal building on the lot. Pools in rear yards shall be located or placed not closer than ten (10) feet from any property line.
3. For safety purposes, a fence of not less than six (6) feet high must surround all swimming pools. However, the house or other building may serve as the safety barrier on one or more sides of the pool.
4. All fences surrounding pools shall have a self-locking gate and shall be of a design and quality to adequately prevent unauthorized children or animals from entering the pool area.
5. The drainage of a pool shall not be onto a neighboring property.

For more detailed direction about drainage of pools, Township shall be advised by the Township Engineer.

6. No swimming pool shall be located under electric lines.
7. Pool lighting fixtures shall be placed, directed, or shielded to protect neighboring properties from light or glare.
8. A permit must be obtained from the CEO prior to the construction or placement of a swimming pool.

#### **2006. Satellite Antennas**

1. Satellite antennas are permitted in all zoning districts.
2. The maximum diameter of antennas in Residential districts shall not exceed 24 inches.
3. Satellite antennas shall be located, designed and screened to minimize the visual

impact on the surrounding properties. Consideration should be given to placement of antennas serving nonresidential uses on existing structures.

4. Where possible, wiring for antennas shall be underground.
5. All satellite antennas shall be adequately grounded for protection against a direct strike of lightning.
6. Where possible, roof-mounted antennas shall be located on the portion of the roof sloping away from the front of the lot.
7. The installation of satellite antennas shall meet all other local, State or Federal codes where possible.

### **2007. Community Residence Facilities, Family Based**

Family based community residence facilities shall be permitted by right, only in the R-1, R-2 and R-3 districts, in accordance with the requirements below:

1. No facility shall be located within 450 feet of an existing facility.
2. There shall be not more than two (2) residents per bedroom, with a maximum of three (3) residents per facility, not including staff.
3. There must be a 24 hour-a-day-on-duty supervisor, who is qualified for the position.
4. Parking shall be in accordance with Article 22.
5. Any alterations or additions to the exterior of a community residence facility shall be compatible with the existing structure and in keeping with the neighborhood character, excluding safety modifications.
6. Each facility must receive all pertinent approvals and/or licenses from the appropriate State agencies.
7. All other applicable requirements of the zoning ordinance, building code, fire code, and all other applicable Township Codes and State regulations must be met.
8. All community residence facilities will be available for reasonable periodic inspections by the CEO.
9. The operator of the facility must register the facility with the CEO.

### **2008. Screening**

The following standards and regulations shall apply to all planted visual screens:

1. Unless specifically stated otherwise, a planted visual screen, as defined in Article 2, shall be provided and continually maintained under the following circumstances:

- a. Where a non-residential use, structure or addition is proposed on a lot adjacent to an existing residential use or a residential district.
  - b. Where a multi-family residential structure is proposed on a lot adjacent to an existing single or two-family dwelling.
  - c. Where an “airport dependent” use is proposed adjacent to or within 100 feet of any “non-airport dependent” use, or residential district or use.
  - d. Any other instance where a planted visual screen is required by this Ordinance, by the Zoning Hearing Board (ZHB) or by other Township ordinances or codes.
2. All mechanical equipment not enclosed in a structure shall be fully and completely screened in a manner compatible with the architectural and landscaping style of the remainder of the lot. Such screening shall be subject to site plan review by the Township.
  3. Screen design, including the type of plant material used, spacing of plant materials, the use and location of earthen berms and, when permitted, privacy fence design and construction, shall be subject to review by the Planning Commission.
  4. A privacy fence may be substituted for a planted visual screen, only when there is insufficient area to provide and maintain such a screen, where specifically permitted in this Ordinance, and upon a recommendation from the Planning Commission.
  5. Dumpsters and other outdoor trash receptacles, where permitted, shall be screened from adjacent properties and from public streets.
  6. Planted visual screens shall comply with the following requirements:
    - a. Except for the screening of outdoor trash receptacles, planted visual screens shall be placed inside and along the property lines of the lot owner providing the screen.
    - b. Screens shall include a row of evergreen species, which are indigenous to the area so as to provide a year-round visual screen.
    - c. Whenever possible, screening shall incorporate earthen mounds or berms to improve sound as well as visual buffering and shall be broken at points of vehicular or pedestrian access or where necessary for storm water drainage.
    - d. Plant materials used in the screen planting shall be at least six (6) feet in height when planted and be of species which will produce within two years a complete, effective visual screen, and no plantings shall be placed with their center closer than five (5) feet from any property line.
    - e. All existing trees within the area proposed to be covered by a required planted

visual screen which are more than three (3) inches in caliper and/or eight (8) feet in height shall be preserved whenever possible.

- f. Screening shall be placed so as not to obstruct sight distances at intersections.
- g. A privacy fence must be constructed of opaque material and must comply with all other standards pertaining to fences as contained in this or other Township ordinances
- h. Screens shall be perpetually maintained during the period that the principal use causing the need for screening is in operation. Any plant material that does not survive shall be replaced within six (6) months.

## **2009. Landscaping**

### **1. General Regulations**

- a. Any part or portion of a site which is not used for buildings or other structures, loading and parking spaces and aisles, sidewalks and designated storage areas shall be planted and maintained with landscaping. Maximum advantage shall be taken of existing trees and shrubs in landscaping.
- b. All landscaped planting areas shall be planted with grass seed, sod or other ground cover and shall be maintained and kept clean of all debris, rubbish, weeds and tall grass, provided, however, that if such land is naturally wooded, it may continue in its natural state.
- c. Unless otherwise specified, landscaped planting areas may be part of the required front, side and rear yards.
- d. Except for single-family and two-family dwellings, proposed developments shall be landscaped according to an overall plan. Such plan shall be prepared and approved as part of the development plan. A replacement program for non-surviving plant material shall be included.

### **2. Landscaping Plans**

- a. Landscaping shall be installed and maintained in accordance with a landscape plan prepared by a registered landscape architect and approved by the Township Commissioners. The landscape plan shall depict all proposed plantings which relate to, complement, screen or accentuate buildings, roads, parking areas, sidewalks, walkways, sitting areas, service or maintenance structures, courtyards and other site features.
- b. The landscaping plan shall be coordinated with the development plan and shall show the location, type, size, height and other characteristics of the proposed landscaping.

- c. The plan shall be accompanied or shall include information regarding the continued maintenance of plantings indicating that all plantings will be replaced if damaged, diseased or dead, in locations shown on the approved plan.

3. Specific Requirements

- a. Except for single family and two-family residential developments, no fewer than two (2) evergreen and/or deciduous trees and no fewer than three (3) shrubs shall be planted for every 25 feet of building frontage. Trees shall have a caliper of not less than 3 inches measured at a height of four (4) feet at time of planting.
- b. Landscaping shall be provided as required below in this section, in the case of new construction or expansion of a building:

Zoning District or Use	Landscaped Area Width Minimum Requirements
C-1 district	Five (5) feet, in front of principal building, along Governor Printz Boulevard.
C-2 district	Eight (8) feet wide along each street frontage and five (5) feet in front of and at one other side of principal building (s).
C-3 district	Same for C-2
C-4 district	Five (5) feet along each street frontage and five (5) feet along the front of the principal building(s).
I-B district	Same as C-4.
H district	Five (5) feet in front of office buildings
IHCO district	Five (5) feet in front of and along one (1) other side of the principal building.
W-1 district	Three (3) feet along two (2) sides if the principal building for all development. In addition, eight (8) feet along each frontage in PUD or shopping center developments
W-2 district	Five (5) feet along two (2 sides of) principal building
Special Use district	Five (5) feet along one side of principal building.

**2010. Small Collection Facilities for Recycling**

Small collection facilities for recycling, as defined in Article 2, shall be permitted in the R-1 and R-2 districts as accessory uses on public land only; and as accessory uses in the C-1, C-2, C-4, C-4A, I-B, W-1 and W-1A districts.

1. Small collection facilities for recycling shall be located not less than 15 feet from the right-of-way of the abutting public street.
2. Trash and debris shall be cleaned-up daily.
3. The name and address of the person or company responsible for the facility shall be displayed on each container.
4. Areas where these facilities are located shall be adequately lighted.

### **2011. No-Impact Home-Based Businesses**

No-impact home-based businesses shall be permitted as accessory uses in all residential districts and within residential uses in the C-1 and W-1 districts.

1. The business activity shall be compatible with the residential use of the property.
2. The business shall employ no employees other than family members residing in the dwelling.
3. There shall be no display of goods and no stockpiling of inventory.
4. There shall be no sign or other outside appearance of a business.
5. The business activity may not use any equipment or process that creates noise, vibration, glare, smoke, fumes, odors or electronic or electrical interference, including interference with radio, television or computer reception.
6. The activity may not generate any solid waste or sewage discharge that is not normally associated with a residential use.
7. The business activity may not occupy more than 25 percent of the floor area of the dwelling
8. The business may not involve any illegal activity.

### **2012. Extension District Boundary into the Delaware River**

As shown on the Tinicum Township Zoning Map, the boundaries of any district that abuts the Delaware River shall extend 500 feet from the mean low water line into the River.

### **2013. Lighting**

1. All lighting facilities for land developments and major subdivisions shall provide an illumination level utilizing the current recommended standards and practices of the Illuminating Engineering Society of North America (IESNA).
2. Illumination where required by this Section shall have the lighting intensities and uniformity ratios as provided in the most recent edition of the Lighting Handbook

of the IESNA, and in accordance with the Pennsylvania Outdoor Lighting Standards.

3. Lighting fixtures shall be of a type and design appropriate to the lighting application and sensitive to the architectural and overall character of the area in which they are located.
4. For lighting horizontal surfaces such as roadways, pedestrian ways, bikeways, and parking areas, fixtures shall meet IESNA “full cutoff” criteria.
5. Floodlights and spotlights shall be so installed and aimed so that they do not project their output into the windows of neighboring residences, adjacent users, directly skyward or onto a roadway or pedestrian way.
6. Fixtures shall not be mounted in excess of 25 feet high for parking lots and nonresidential uses and 15 feet for residential uses.

#### **2014. Utilities Underground**

After the effective date of this Ordinance, in all zoning districts developers/builders of new construction projects shall place all utilities underground.

#### **2015. Aircraft Prohibited**

In order to further strengthen the provisions prohibiting aircraft in several zoning districts, it is hereby declared that Tincum Township prohibits the presence of airplanes and all other aircraft from the individual zoning districts as noted in this Ordinance.

#### **2016. Communications antennas and communications equipment buildings**

- A. Building-mounted communications antennas shall not be located on any single-family dwelling or two-family dwelling.
- B. Building-mounted communications antennas shall be permitted to exceed the height limitations of the applicable zoning district by no more than 20 feet.
- C. Omnidirectional or whip communications antennas shall not exceed 20 feet in height and seven feet in diameter.
- D. Directional or panel communications antennas shall not exceed five feet in height and three feet in width.
- E. Any applicant proposing communications antennas to be mounted on a building or other structure shall submit evidence from a Pennsylvania registered professional engineer certifying that the proposed installation will not exceed the structural capacity of the building or other structure for review by the for compliance with the Tincum Township's Building Code<sup>25</sup> and other applicable law.

- F. Any applicant proposing communications antennas to be mounted on a building or other structure shall submit evidence of agreement and/or easements necessary to provide access to the building or structure on which the antennas are to be mounted so that installation and maintenance of the antennas and communications equipment building can be accomplished.
- G. Communications antennas shall comply with all applicable standards established by the Federal Communications Commission governing human exposure to electromagnetic radiation.
- H. Communications antennas shall not cause radio frequency interference with other communications facilities located in the Tinicum Township.
- I. A communications equipment building shall be subject to the height and setback requirements of the applicable zoning district for an accessory structure.
- J. The owner or operator of communications antennas shall be licensed by the Federal Communications Commission to operate such antennas.

**ARTICLE 21:**  
**PROCEDURES AND STANDARDS FOR SPECIAL EXCEPTIONS AND  
CONDITIONAL USES**

**2100. Purpose**

The purpose of this Article is to provide standards and procedures for uses permitted by special exception and those by Conditional Use. In these cases, the Zoning Hearing Board (ZHB) or the Board of Commissioners may attach reasonable conditions and safeguards in addition to those expressed in this Article, as they may deem necessary to implement the purposes of this Ordinance and those of the Planning Code, Act 247 as amended.

The reason for a use to require a special exception or conditional use permit is the unusual and substantial impact it would exert upon the area and upon the public health, safety, and welfare, coordinated community development, parking and loading, traffic congestion, police and fire protection, emergency preparedness, sewerage, schools, recreational facilities, and public grounds.

**Special Exceptions**

**2101. General Requirements**

In any instance where the ZHB is required to consider a request for a special exception, the ZHB shall consider the provisions of this Article.

**2102. Standards for Review of Special Exceptions**

See Section 2606.2 in Article 26, Zoning Hearing Board.

**2103. Requirements Where Standards Are Not Provided**

In cases where this Ordinance does not provide specific dimensional standards for uses permitted by special exception, the ZHB shall apply the following general dimensional standards:

1. In residential districts, the area, bulk, and any other applicable requirements shall be no less stringent than those for single-family dwellings having the most stringent requirements in the district where the use is proposed.
2. In non-residential districts, the area, bulk, and any other applicable requirements shall be no less stringent than those for the use that requires the greatest dimensions in the applicable non-residential district.
3. The ZHB may require additional, reasonable but more stringent standards than those required in Sections 2103.1 and 2103.2 above, provided that the Board makes one or more of the following determinations:

That the requirements of subsections 1 and 2 above are clearly:

- a. Insufficient to accommodate the proposed building, facility, or use, and that

greater dimensional requirements would substantially alleviate that condition.

- b. Insufficient to provide adequate area for parking and loading, as required by Article 22, and that greater requirements would substantially alleviate that condition.
- c. Insufficient to provide for lot areas and dimensions necessary to protect the adjacent area from the potential adverse impacts of the proposed use, such as noise, vibration, air pollution, and similar impacts, and that greater dimensional requirements would substantially alleviate that condition.

4. All parking requirements of Article 22 shall otherwise be followed.

#### **2104. Hearings and Decisions**

Hearings of the ZHB and its decisions shall be in compliance with the following and Sections 2604 and 2605 of this Ordinance.

- 1. Public notice shall be given, and written notice shall be given to the applicant, the zoning officer, such other persons as the governing body shall designate by ordinance and to any person who has made timely request for the same. Written notices shall be given at such time and in such manner as shall be prescribed by ordinance or, in the absence of ordinance provision, by rules of the board. In addition to the written notice provided herein, written notice of said hearing shall be conspicuously posted on the affected tract of land at least one week prior to the hearing.
  - a. The governing body may prescribe reasonable fees with respect to hearings before the zoning hearing board. Fees for said hearings may include compensation for the secretary and members of the zoning hearing board, notice and advertising costs and necessary administrative overhead connected with the hearing. The costs, however, shall not include legal expenses of the zoning hearing board, expenses for engineering, architectural or other technical consultants or expert witness costs.
  - b. The first hearing before the board or hearing officer shall be commenced within 60 days from the date of receipt of the applicant's application, unless the applicant has agreed in writing to an extension of time. Each subsequent hearing before the board or hearing officer shall be held within 45 days of the prior hearing, unless otherwise agreed to by the applicant in writing or on the record. An applicant shall complete the presentation of his case-in-chief within 100 days of the first hearing. Upon the request of the applicant, the board or hearing officer shall assure that the applicant receives at least seven hours of hearings within the 100 days, including the first hearing. Persons opposed to the application shall complete the presentation of their opposition to the application within 100 days of the first hearing held after the completion of the applicant's case-in-chief. And applicant may, upon

request, be granted additional hearings to complete his case-in-chief provided the persons opposed to the application are granted an equal number of additional hearings. Persons opposed to the application may, upon the written consent or consent on the record by the applicant and municipality, be granted additional hearings to complete their opposition to the application provided the applicant is granted an equal number of additional hearings for rebuttal.

2. The hearings shall be conducted by the board or the board may appoint any member or an independent attorney as a hearing officer. The decision, or, where no decision is called for, the findings shall be made by the board; however, the appellant or the applicant, as the case may be, in addition to the municipality, may, prior to the decision of the hearing, waive decision or findings by the board and accept the decision or findings of the hearing officer as final.
3. The parties to the hearing shall be Tincum Township, any person affected by the application who has made timely appearance of record before the board, and any other person including civic or community organizations permitted to appear by the board. The board shall have power to require that all persons who wish to be considered parties enter appearances in writing on forms provided by the board for that purpose.
4. The chairman or acting chairman of the board or the hearing officer presiding shall have power to administer oaths and issue subpoenas to compel the attendance of witnesses and the production of relevant documents and papers, including witnesses and documents requested by the parties.
5. The parties shall have the right to be represented by counsel and shall be afforded the opportunity to respond and present evidence and argument and cross-examine adverse witnesses on all relevant issues.
6. Formal rules of evidence shall not apply, but irrelevant, immaterial, or unduly repetitious evidence may be excluded.
7. The board or the hearing officer, as the case may be, shall keep a stenographic record of the proceedings. The appearance fee for a stenographer shall be shared equally by the applicant and the board. The cost of the original transcript shall be paid by the board if the transcript is ordered by the board or hearing officer or shall be paid by the person appealing from the decision of the board if such appeal is made, and in either event the cost of additional copies shall be paid by the person requesting such copy or copies. In other cases, the party requesting the original transcript shall bear the cost thereof.
8. The board or the hearing officer shall not communicate, directly or indirectly, with any party or his representatives in connection with any issue involved except upon notice and opportunity for all parties to participate, shall not take notice of any communication, reports, staff memoranda, or other materials, except advice from

their solicitor, unless the parties are afforded an opportunity to contest the material so noticed and shall not inspect the site or its surroundings after the commencement of hearings with any party or his representative unless all parties are given an opportunity to be present.

9. The board or the hearing officer, as the case may be, shall render a written decision or, when no decision is called for, make written findings on the application within 45 days after the last hearing before the board or hearing officer. Where the application is contested or denied, each decision shall be accompanied by findings of fact and conclusions based thereon together with the reasons therefor. Conclusions based on any provisions of this act or of any ordinance, rule or regulation shall contain a reference to the provision relied on and the reasons why the conclusion is deemed appropriate in the light of the facts found. If the hearing is conducted by a hearing officer and there has been no stipulation that his decision or findings are final, the board shall make his report and recommendations available to the parties within 45 days and the parties shall be entitled to make written representations thereon to the board prior to final decision or entry of findings, and the board's decision shall be entered no later than 30 days after the report of the hearing officer. Except for challenges filed under section 916.1 of the MPC, where the board fails to render the decision within the period required by this subsection or fails to commence, conduct or complete the required hearing as provided in subsection 3, the decision shall be deemed to have been rendered in favor of the applicant unless the applicant has agreed in writing or on the record to an extension of time. When a decision has been rendered in favor of the applicant because of the failure of the board to meet or render a decision as hereinabove provided, the board shall give public notice of said decision within ten days from the last day it could have met to render a decision in the same manner as provided in subsection (1) of this section. If the board shall fail to provide such notice, the applicant may do so. Nothing in this subsection shall prejudice the right of any party opposing the application to appeal the decision to a court of competent jurisdiction.
10. A copy of the final decision or, where no decision is called for, of the findings shall be delivered to the applicant personally or mailed to him not later than the day following its date. To all other persons who have filed their name and address with the board not later than the last day of the hearing, the board shall provide by mail or otherwise, brief notice of the decision or findings and a statement of the place at which the full decision or findings may be examined.

### **2105. Residential Conversions**

Residential conversions shall be permitted by special exception, only in the R-2, R-3 and C-1 district.

1. To be eligible for conversion, a single family detached dwelling must contain a minimum of 750 square feet of floor area for each unit. The conversion of single family semi-detached (twin), single family attached (row/townhouse) and two family detached (duplex) dwellings is not permitted.
2. The total number of units created by the conversion shall not exceed two (2).

3. Conversions shall comply with all requirements of the district in which they are located.
4. Not less than two (2) parking spaces shall be created for each unit created by the conversion.
5. Each unit will be a complete, separate housekeeping unit that is separate from every other unit.
6. All utility connections shall meet the utility company standards.
7. No external alteration inconsistent with the residential use or architectural character of the dwelling or the neighborhood shall be permitted.
8. Separate entrances to the outside or to a common hallway opening to the outside shall be provided for each dwelling unit.
9. Applications for conversion shall be submitted to the Code Enforcement Officer (CEO) and shall include the following information items:
  - a. Floor plan showing the layout, including all dimensions of each unit.
  - b. Site development plan showing and locating the dwelling and other existing buildings; all property lines, any proposed additions, building set back lines, location and size of all underground utilities, as well as the length, width and function of all rights-of-way, easements and required parking spaces.
10. After processing the application, the CEO shall forward it to the ZHB for consideration as a special exception.

**2106. Church and other religious uses**

- |    |                     |   |                            |
|----|---------------------|---|----------------------------|
| 1. | Lot Area:           | - | 20,000 square feet minimum |
| 2. | Lot Width:          | - | 100 feet, minimum          |
| 3. | Building Coverage:  | - | 40 percent, maximum        |
| 4. | Impervious Surface: | - | 60 percent, maximum        |
| 5. | Front Yard:         | - | 25 feet, minimum           |
| 6. | Side Yard:          | - | 25 feet, minimum           |
| 7. | Rear Yard:          | - | 30 feet, minimum           |
| 8. | Height              | - | 50 feet, maximum           |

**2107. Public Educational Use**

- 9. Lot Area: - 20,000 square feet minimum
- 10. Lot Width: - 100 feet, minimum
- 11. Building Coverage: - 40 percent, maximum
- 12. Impervious Surface: - 60 percent, maximum
- 13. Front Yard: - 25 feet, minimum
- 14. Side Yard: - 25 feet, minimum
- 15. Rear Yard: - 30 feet, minimum
- 16. Height - 50 feet, maximum

**2108. Child Day Care Centers**

Child day care centers shall be permitted as a special exception in the C-1, C-2, C-3 districts; as a special exception in R-1 and R-2 districts, as part of a school or church and as an accessory use in the C-2, C-3 and IB districts.

- 1. A fence not less than four (4) feet high shall be placed around all outdoor play areas. The bottom end of such fence must reach the ground to prevent children from crawling underneath.
- 2. Outdoor play activities shall be limited to the hours between 9:00 a.m. and 7:00 p.m.
- 3. Parking shall be in accordance with Article 22.
- 4. Signs shall be in accordance with Article 23.
- 5. Each facility shall provide for the discharge and pickup of children on a driveway, approved parking area or directly in front of the facility. In any case, the area selected for discharge and pickup must be free from traffic hazards to children.
- 6. No part of a facility may be located within 200 feet of gasoline pumps or underground storage tanks or any other storage area for explosive or hazardous materials.
- 7. Whenever possible, the drop-off area shall be located immediately adjacent to the facility. The drop-off area shall be designed in such a way that pedestrians do not cross-vehicular traffic lanes in any parking area or driveway. The drop-off area may be designed either as a part of the on-site parking area or the required drop-off spaces may be designed as part of a driveway providing direct access to the day care center.
- 8. All pedestrian pathways shall be adequately lighted for safety and security if

utilized during non-daylight hours. Specific areas for lighting are entrance ways, pedestrian access to the outdoor play areas, sidewalks used in non-daylight hours, drop-off areas, merchandise delivery areas and all parking lots.

9. All facilities shall comply with the requirements of the district in which they are located.
10. All facilities must be licensed and comply with all current regulations of the Pennsylvania Department of Public Welfare (DPW) and any other applicable state and local building and fire safety codes.
11. The operator of any child day care center will allow the CEO to enter the property at reasonable times to inspect for compliance with the requirements of this Section and all other applicable municipal and state ordinances and regulations.

### **2109. Gasoline Service Stations**

Gasoline service stations shall be permitted as a special exception in the C-2 district, and by right in the I-B district subject to the requirements below:

1. Minimum lot area shall be 15,000 square feet.
2. All pumps shall be located outside of buildings.
3. All fuel containers in excess of 100 gallons shall be located underground.
4. No service station shall be located within 200 feet of a school, church, day care center, nursing home, residential use or place of public assembly having a capacity of more than 50 persons. The required 200 feet shall be measured in the shortest distance between the service station property and any of the above uses.
5. Hydraulic hoists, pits, and all lubrication, greasing, washing and repair equipment shall be entirely within an enclosed building
6. Exterior lighting shall be shielded so that it is deflected from adjacent or nearby properties and from motorists on public streets.
7. All applicable provisions of Section 2009, Landscaping and 2008, Planted Visual Screen, shall be followed.
8. Service stations shall also comply with all applicable regulations of the Fire Marshall Division of the Pennsylvania State Police and with those of any other applicable State or Federal agency.

### **2110. Funeral Homes**

Funeral homes shall be permitted as a special exception in the C-1 district only.

1. There shall be a lot area of not less than 15,000 square feet for each funeral home.

2. Lot width shall be not less than 75 feet.
3. Parking shall be in accordance with Article 22.
4. Loading and unloading areas for hearses or other service vehicles shall be screened from abutting or nearby residential properties by a wall or planted visual screen, as required in Section 2008.
5. No principal or accessory building in which any funeral related activities take place shall be less than 20 feet from a side or rear lot line that abuts a residential use or district.

### **2111. Auto sales/dealership**

Automobile sales establishments shall be permitted by special exception in the C-2 Commercial district subject to the following requirement:

1. Repair and service of motor vehicles shall be limited to those that do not require the use of a hydraulic lift or power tools. Hydraulic lifts and power tools shall not be permitted for use in auto service garage contained within and auto sales establishment.

### **2112. Office Buildings**

Office buildings shall be permitted as conditional use in W-1 and W1-A districts, subject to the following requirements. (Office buildings are also permitted in the Industrial Heritage Overlay district that contains its own regulations).

1. Office buildings shall comply with the Bulk and Area requirements of the W-1 district as per Section 1506.
2. Exterior lighting shall be arranged to protect adjoining properties from direct or indirect glare or interference of any kind. All lighting fixtures shall be equipped with glare shielding devices and shall not exceed 20 feet in height.

### **2113. Adult Uses**

In accordance with Article 19-A.

### **2114. Bed and Breakfast Inns**

Bed and breakfast inns shall be permitted only by special exception, in the W-1 district.

1. Minimum lot area for a bed and breakfast (B&B) inn shall be not less than 15,000 square feet.
2. All guests shall be transient with the length of stay not exceeding seven (7) days
3. The number of lodging rooms shall not exceed twelve (12).

4. The owner of the establishment shall reside on the premises
5. There shall be not less than one (1) paved parking space for every lodging room, plus two (2) spaces for the resident family, plus one (1) for each employee where such employees are present. The facility shall comply with all other applicable requirements of Article 22, Parking Regulations.
6. Truck deliveries shall not be made prior to 7:00 a.m. nor later than 7 p.m.
7. A planted visual screen shall be provided in compliance with Section 2008.
8. The facility shall have one (1) bathroom for every two (2) lodging rooms.
9. The owner or operator of the B&B may hold Special Events such as weddings, anniversary celebrations, birthdays, and corporate or private meetings upon the premises subject to the following conditions and limitations:
  - a. The Special Event shall be for the benefit of or organized by a guest the Inn who rents the entire facility for the duration of the Special Event that shall not exceed three (3) consecutive days duration.
  - b. Such Special Event shall be held generally at the outside of the facility, unless interior use shall be permitted by the CEO.
  - c. Music and Entertainment shall not start prior to 11:00 a.m. nor take place than 10:00 p.m.
  - d. The owner operator of the facility shall be required to obtain a permit for any Special Event, which permit may be revoked in the event of a failure to comply with this Section (2113).

#### **2115. Aircraft and Aircraft Dependent Uses**

Aircraft and aircraft dependent use shall be permitted by conditional use in the C-4A district subject to the following requirement:

1. The contractual obligations of the Airport Capacity Enhancement Program (CEP) must be met as a condition for the permission of aircraft and aircraft dependent uses.

### **Conditional Uses**

#### **2116. General Requirements for Review of Conditional Uses**

1. In any instance where the Board of Commissioners is required to consider a request for a conditional use, the Commissioners shall consider the following factors where appropriate:
  - a. That the proposed use is appropriate for the site in question in terms of size,

topography, natural features, drainage, sewage disposal, water supply, accessibility and availability of public services and that adequate provisions will be made to protect sensitive environmental features such as streams, lakes, wetlands, slopes and mature trees.

- b. That the proposed use is compatible with the character of the surrounding neighborhood and will not interfere with or detract from legitimate uses and adjacent properties, and that adequate measures will be provided through building design, site layout, landscaping, planting and operational controls to minimize any adverse impacts caused by noise, lights, glare, odors, smoke, fumes, traffic, parking loading and signage.
  - c. That the proposed conditional use will serve the best interest of the Township, convenience of the community and the public health, safety and welfare.
  - d. That the proposed use is consistent with the latest, adopted Community Development Objectives for Tincum Township. (See Section 102).
  - e. That the proposed use promotes orderly development, proper population density and the provision of adequate community facilities and services, including police and fire protection.
  - f. That the proposed use is suitable in terms of its effect on highway safety and traffic circulation, and that access, on-site circulation and parking are adequate in view of anticipated traffic.
  - g. That the proposed use will provide for adequate off-street parking, as required in Article 22, Parking.
2. Financial hardship shall not be a basis for granting the conditional use.
  3. In granting any conditional use the Commissioners may attach reasonable conditions and safeguards in addition to those expressed in this Ordinance as they may deem necessary to implement the purposes of the Planning Code and this Ordinance, which conditions and safeguards may relate to, but not be limited to, screening, lighting, noise, safety, aesthetics and the minimization of noxious, offensive or hazardous elements. Such conditional use shall be clearly authorized by a provision in this Ordinance and shall, where applicable, comply with the more specific standards relating to such conditional use contained below in appropriate sections of this Article.
  4. The following procedures shall be followed by the Tincum municipal governing body in the review of a conditional use application:
    - (a) Where the governing body, in the zoning ordinance, has stated conditional uses to be granted or denied by the governing body pursuant to express standards and criteria, the governing body shall hold hearings on and decide requests for such conditional uses in accordance with such standards and criteria. The hearing shall be conducted by the board or the board may

appoint any member or an independent attorney as a hearing officer. The decision, or, where no decision is called for, the findings shall be made by the board. However, the appellant or the applicant, as the case may be, in addition to the Tincum Township, may, prior to the decision of the hearing, waive decision or findings by the board and accept the decision or findings of the hearing officer as final. In granting a conditional use, the Board may attach such reasonable conditions and safeguards, in addition to those expressed in the ordinance, as it may deem necessary to implement the purposes of this act in the zoning ordinance.

- (b) The governing body shall render a written decision or, when no decision is called for, make written findings on the conditional use application within 45 days after the last hearing before the governing body. Where the application is contested or denied, each decision shall be accompanied by findings of fact or conclusions based thereon, together with any reasons therefor. Conclusions based on any provisions of this act or of any ordinance, rule or regulation shall contain a reference to the provision relied on and the reasons why the conclusion is deemed appropriate in the light of the facts found.
- (c) Where the governing body fails to render the decision within the period required by this subsection or fails to commence, conduct or complete the required hearing as provided in section 908 (1.2) of the MPC, the decision shall be deemed to have been rendered in favor of the applicant unless the applicant has agreed in writing or on the record to an extension of time. When a decision has been rendered in favor of the applicant because of the failure of the governing body to meet or render a decision as hereinabove provided, the governing body shall give public notice of the decision within ten days from the last day it could have met to render a decision in the same manner as required by the public notice requirements of this act. If the governing body shall fail to provide such notice, the applicant may do so.
- (3) Nothing in this subsection shall prejudice the right of any party opposing the application to appeal the decision to a court of competent jurisdiction. 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 no later than the day following its date.

### **2117. Application and Fees**

1. Application for a conditional use shall be made to the Board of Commissioners and shall be accompanied by a plan of the property showing the details of the use proposed, a traffic study, and other such written and graphic material as required by the applicable provisions of the latest adopted Delaware County Subdivision and Land Development Ordinance (SALDO) as now exists or may be adopted in the future and the applicable provisions of this Ordinance to adequately determine the appropriateness of the use at the location proposed. The application shall be

accompanied by such fees as shall be established by the Commissioners, in an amount to cover all costs incurred by the Township.

### **2118. Requirements Where Standards Are Not Provided**

Where specific standards are not provided in this Article for uses considered by Conditional Use permit, the Commissioners shall apply the general standards listed in 2103 above.

### **2119. Standards of Proof**

An applicant for a conditional uses permit shall have the burden of establishing both:

1. That the application falls within the provisions of this Ordinance, which affords the applicant the right to seek a conditional use permit; and
2. That the allowance of a conditional use permit will not be contrary to the public interest.

### **2120. Impact on Public Interest**

In determining whether the allowance of a conditional use permit is contrary to the public interest, the Commissioners shall consider whether the application, if granted, will:

2. Adversely affect the public health, safety and welfare due to changes in traffic conditions, air quality, noise levels, neighborhood property values, natural features, and neighborhood aesthetic characteristics.
3. Be in accordance with the most recently adopted Community Development Objectives for Tinicum Township.
4. Provide required parking in accordance with Article 22.
5. Adversely affect the logical, efficient and economical extension or provision of public services and facilities such as public water, public sewers, refuse collection, police, fire protection and public schools.
6. Otherwise adversely affect the public health, safety and welfare.

### **2121. Expiration of Conditional Use Permits**

Unless otherwise specified by the Commissioners, a conditional use permit shall expire if the applicant fails to obtain a building permit within six (6) months from the date of authorization thereof, unless the applicant can show that there were permitting delays beyond his control.

### **2122. Public Hearing**

1. Within 60 days after the applicant files an application for a conditional use, the Board of Commissioners shall hold a public hearing pursuant to public notice. The cost of such public hearing(s) shall be borne by the applicant. Written notice of the public hearing shall be given to the applicant, the CEO, such other persons that the Commissioners may designate and to all others who have registered their names

with the Tincum Township CEO for that purpose.

2. After a full review of the application, and the recommendations of the Planning Commission, the Board of Commissioners shall render a written decision, or when no decision is called for, make written findings on the application. When the application is contested or denied, the decision shall be accompanied by findings of fact or conclusions based thereon, together with any reasons therefore. Such decision or written finding shall be made by the Commissioners no later than 45 days after the last hearing.
3. The Board of Commissioners shall approve or disapprove the application by resolution and shall send a written notification to the applicant within ten (10) days of a decision.

### **2123. Method of Determination**

1. The Board of Commissioners shall, within 45 days of the date of the last hearing, render a final decision and shall by official communication to the applicant either:
  - a. Approve the application as presented
  - b. Disapprove the application as presented
  - c. Approve the application, subject to specified conditions.
  - d. Failure to act within the said period shall be deemed to be a grant of approval of the application.
2. If the application involves a land development, a detailed plan review shall be required by the Township after the application of the conditional use has been acted upon by the Board of Commissioners. This land development review shall be in accordance with the procedures outlined in the latest adopted Delaware County SALDO, as now exists or may be adopted in the future. If the applicant wishes to provide the necessary documentation, the Board of Commissioners may consider the concurrent review of the conditional use requested and the detailed plans for the land development. Time limits for review of the detailed plans, if necessary, will be governed by the latest adopted Delaware County SALDO.

### **2124. Conference Center**

As noted in Section 1406-A of Tincum Township Industrial Heritage Corridor Overlay district.

### **2125. Marina**

As noted in Section 1406-A of Tincum Township Industrial Heritage Corridor Overlay district.

### **2126. Motels and Hotels**

Hotels shall be permitted by conditional use in C-2, C-3, and W-1 districts subject to the standards and criteria below, and in the IHCO Industrial Heritage Corridor Overlay subject to the standards and

criteria below as well those specified in section 1405-A(1)(c). Motels shall be permitted by conditional use in the C-3 district, subject to the standard and criteria below.

1. Lot area shall be not less than two (2) acres.
2. Lot width shall be not less than 150 feet.
3. The front yard shall be not less than 30 feet.
4. The side yards shall be not less than 20 feet on each side.
5. The rear yard shall be not less than 20 feet.
6. Building coverage shall not exceed 40 percent of the lot area.
7. Impervious surface shall not exceed 70 percent of the lot area.
8. Landscaping shall be provided in accordance with Section 2009.
9. Building height shall not exceed that required in district where the facility is located.
10. Hotels in the W-1 district are also subject to the following standards and criteria:
  - a. Hotels must contain frontage along the Delaware River
  - b. Hotels must include sit-down indoor and/or outdoor dining restaurant.
  - c. Public along the Delaware River must be provided on the hotel property
  - d. Viewsheds along the river should be preserved in the siting, design and development of the hotel.
  - e. A marina for river access to the may be incorporated as part of the hotel development.

**2127. Townhouses, as conditional use in Industrial Heritage Overlay district.**

As noted in Section 1406-A of Tinicum Township Industrial Heritage Corridor Overlay district.

**2128. Apartments, as conditional use in Industrial Heritage Overlay district**

As noted in Section 1406-A of Tinicum Township Industrial Heritage Corridor Overlay district.

**2129. Townhouses**

The following regulations shall apply to townhouses in the W-1 district which shall be permitted as a conditional use only.

1. There shall be a tract area of not less than one (1) acre and a lot area of not less than 2,000 square feet.

2. Lot width shall be not less than 20 feet.
3. Density shall be not more than 10 units per acre.
4. Not less than 25 percent of the tract shall be devoted to open space.
5. Setbacks shall be not less than 40 feet from the exterior road, not less than 15 feet from a parking area, and not less than 20 feet from tract boundaries.
6. There shall be not more than six (6) units in a row.
7. The distance between buildings shall be not less than 30 feet.
8. Not more than two (2) abutting units shall have the same front setback. Variations in front setback shall be not less than three (3) feet.
9. There shall be a planted visual screen between the parking area in a townhouse development and adjacent single-family detached or semi-detached dwellings. See Section 2008.

### **2130. Apartments**

In the W-1 district, apartments shall be permitted only as a conditional use, subject to Article 21.



**ARTICLE 22:**  
**PARKING REGULATIONS**

**2200. Purposes**

The purposes of this Article are to adequately provide for the parking needs of all uses in the Township, to reduce traffic congestion on public streets by getting parking off streets and to allow faster emergency access. The secondary purposes include providing for special parking needs of handicapped drivers and providing flexibility in meeting the Township's parking needs by methods such as common parking arrangements.

**2201. Applicability**

1. Basic Requirements

Off-street parking shall be provided in accordance with the requirements in Section 2203 below. All such off-street parking areas shall be provided on the same parcel of land as the use or building they serve, except as modified by Section 2205.

2. Existing Structures and Uses

No building or use of land lawfully in existence prior to the effective date of this Ordinance shall be subject to the requirements of Section 2203, so long as the kind or extent of use is not changed so as to require additional parking.

3. Provision and Retention of Facilities

All required parking facilities shall be provided and maintained so long as the use exists which the facilities were designed to serve. Off-street parking facilities shall not be reduced in total extent except when such reduction is in conformity with this Article.

4. Change or Extension of Use

Whenever a structure is altered or a use is changed or extended which increases the parking requirements of Section 2203, then the total additional parking required for the alteration, change or extension shall be provided in accordance with Section 2203.

**2202. General Regulations for Off-Street Parking**

1. Where a use is not specifically listed in this Ordinance, the Zoning Officer shall apply the standards of the most similar use listed to determine the number of parking spaces required.

2. If the computation of the parking ratios listed in Section 2203 results in a fraction, an additional parking space shall be required.

3. All parking areas, loading areas and driveways shall be graded and surfaced with asphalt or other suitable materials to prevent dust and erosion. Such areas shall also be drained in conformance with Township standards to prevent excessive water flow onto streets or adjoining properties.
4. In off-street parking areas with five (5) or more spaces, each space shall be clearly line-stripped and maintained.
5. Freestanding establishments located within shopping centers shall have adequate parking as required in Section 2203 and will not rely on common parking to meet the aforementioned requirements, except where the conditions of Section 2205 are met.
6. All parking areas with five (5) or more spaces shall be adequately lighted so as to assist in the safe maneuvering of motor vehicles and to provide security for users of the lot. All lighting shall be arranged to avoid glare on adjacent properties.
7. Parking or storage of disabled, partially dismantled, or junk cars, trucks, boats or other vehicles shall be permitted on a lot for a continuous period of not more than ten (10) days.
8. Parking areas serving townhouse or multifamily developments of 10 or more units, shall provide off street parking spaces for guests, in addition to the spaces required in Section 2203. Such additional spaces for guests shall be provided at a rate of one (1) space for every 10 spaces provided.
9. Where a use is not specifically listed in this Ordinance or no parking standards are provided for the use, the Zoning Officer shall apply standards of the most similar use to determine the number of parking spaces.

**2203. Required Parking Ratios**

1. Residential Uses

<u>Use</u>	<u>Off-Street Parking Requirements</u>
a. Single and two-family dwelling	Three (3) for every dwelling unit.
b. Townhouse	Three (3) for every dwelling unit.
c. Multi- family dwelling	One and one-half (1 ½) for one-bedroom unit, two and one-half (2 ½) for two-bedroom unit, and three (3) for three-bedroom unit
d. Conversion	Two (2) per unit.
e. Community residence facility	One (1) for every two (2) bedrooms, plus one (1) for each employee

2. Public or Private Recreational Uses

<u>Use</u>	<u>Off-Street Parking Requirements</u>
a. Private clubs	One (1) for every 200 square feet of gross floor area, plus the requirements for bars and restaurants (Section 2203.4) below.
b. Bowling alley	Four (4) for each lane, plus the requirements for any accessory uses within bowling alley.
c. Gymnasium stadium	One (1) for every four (4) seats.
d. Outdoor recreation	One (1) for every 2,000 square feet of area devoted to such use
f. Indoor recreation	One (1) for every 150 square feet of gross floor area.

3. Governmental, Institutional and Educational Uses

<u>Use</u>	<u>Off-Street Parking Requirements</u>
a. Auditoriums, churches, and other places of public assembly	One (1) for every three (3) seats, plus (1) for every 150 square feet of meeting room area.
b. Community center, municipal building, library or similar use	One (1) for every 250 square feet of gross floor area.
c. Child day care center	One (1) for every 500 square feet of gross floor area, plus one (1) for each adult attendant. This shall be in addition to the parking requirements of the primary use, such as a school or church, if applicable.
d. Secondary, primary, and nursery schools	One (1) for each faculty member or other full-time employee, plus two (2) for each classroom, plus one (1) for every twelve (12) students aged 16 years or older.
e. Business or Trade School	One space (1) for each teacher, plus one (1) for each classroom, plus one (1) for every two (2) full-time students, plus one (1) for every two (2) full-time

employees.

- f. Museum One space (1) for every three hundred (300) square feet of gross floor area.

4. Retail, Commercial and Other Business Uses

<u>Use</u>	<u>Off-Street Parking Requirements</u>
a. Retail store or shop	One (1) for every 200 square feet of gross floor area.
b. Furniture or appliance store	One (1) for every 300 square feet of gross floor area.
c. Convenience store	One (1) for every 125 square feet of gross floor area plus one (1) for every two (2) employees on shift of greatest employment.
d. Supermarket	One (1) for every 125 square feet of gross floor area.
e. Personal service businesses such as barber shops, shoe repair, etc.	One (1) for every 150 square feet of gross floor area plus one (1) for every two (2) employees on shift of greatest employment.
f. Shopping center	One (1) for every 250 square feet of gross leasable floor area.
g. Professional and other offices	One (1) for every 250 square feet of gross floor area.
h. Banks, credit unions, and savings and loans	One (1) for every 200 square feet of gross floor area plus one (1) for every two (2) employees on shift of greatest employment.
i. Medical, dental, veterinary offices or clinics	One (1) for every 100 square feet of waiting room space, plus two (2) for each practitioner.
j. Restaurant	

- (1) Sit-down One (1) for every three (3) seats or one (1) for every 40 square feet devoted to patron use, whichever is greater, plus one (1) for every two (2) employees on the shift of greatest employment.
- (2) Restaurant, drive through One (1) for every 75 square feet of drive-through gross floor area, plus one (1) for every two (2) service employees on the shift of greatest employment.
- k. Bar, tavern
  - (1) Without live entertainment and/or dancing, One (1) for every 100 square feet of gross floor area.
  - (2) With live entertainment and/or dancing One (1) for every 30 square feet. of gross floor area of said bar, tavern, cocktail lounge, night club, including hotels and motels with similar uses.
- l. Movie theater or place of amusement One (1) for every three (3) seats, plus one (1) for every employee on the shift of greatest employment.
- m. Funeral home One (1) for every 75 square feet of floor area in viewing rooms or parlors, plus one (1) for each official funeral car, plus one (1) for every two (2) employees exclusive of the resident family members.
- n. Bed and Breakfast One (1) for every lodging room, plus inn two (2) for the resident family, plus one (1) for each employee where such employees are present. The facility shall comply with all other applicable requirements of this Article.
- o. Hotel, motel, Inn, lodge One (1) for each unit, plus one (1) for every three (3) seats in any restaurant or banquet facility accessory to said hotel, motel, inn, or lodge, plus one (1) for every two (2) employees on shift of greatest employment.
- p. Car wash

(1)	Standard	Ten (10) per bay for stacking, plus four (4) for standing between the exit of the facility and the street, plus one (1) for each employee on shift of greatest employment.
(2)	Self-service	Four (4) per bay for stacking, plus two per bay (2) for standing between the facility and the street.
q.	Laundromat	One (1) for every two (2) washing self-service machines
r.	Automobile service and repair	Two (2) spaces, either within or outside the structure, for every 200 square feet of floor or devoted to repair or service facilities, plus such space as is necessary for vehicles purchasing gasoline or being stored. In no case shall the spaces for permitted motor vehicle storage in conjunction with a service station be fewer than five (5).
s.	Repair or tradesman's shop, e.g. carpenter, plumber, etc.	One (1) for every 400 feet of gross floor area.
t.	Temporary uses such as sale of Christmas trees, flowers, produce and other goods	One (1) for every 200 square feet of sales space, but in no case fewer than three (3) spaces.
u.	Marina	One (1) for each boat slip, plus one (1) for every 400 square feet of retail sales area or boat service or repair or area

5. Industrial and Other Related Uses

**Use**

- a. Research, development, light assembly, air freight

**Off-Street Parking Requirements**

For buildings with less than 10,000 gross floor area, one (1) for every 1000 square feet of gross floor area, but not less than five (5) spaces. For buildings with 10,000 square feet or more of gross floor area, one (1) for every 1000 square feet of gross floor area, but not less than ten (10) spaces.

- b. Storage, manufacturing, warehouse, distribution, wholesale, heavy industry  
For buildings with less than 10,000 square feet of gross floor area, one (1) for every 1,500 square feet of gross floor area, but not less than five (5) spaces. For building with 10,000 square feet or more of gross floor area, one for every 1,500 square feet of gross floor area, but not less than ten (10) spaces.
- c. Small collection facility for recycling  
Two (2) for each facility.
- d. Buildings or uses other than specified  
One (1) for every 300 square feet of gross floor area for buildings. For open areas, one (1) for every 300 square feet of lot area, except when otherwise authorized by the Zoning Hearing Board as a special exception consistent with the principles set forth herein for comparable buildings.

**2204. Design Regulations**

1. The size of a standard parking space shall be nine (9) feet wide by 18 feet long, an area of 162 square feet.
2. Parking spaces for the handicapped shall be 13 feet wide by 18 feet long, an area of 234 square feet. Parking spaces for the handicapped must be located as close as possible to public entrances and ramps to buildings. Each space must be clearly marked with proper signage.
3. Handicapped spaces shall be provided in the amounts required below:

Total Parking Spaces	Number of Required Handicapped Spaces
10- 25	1
26- 50	2
51- 75	3
76-100	4
100+	Maintain 1:25 ratio of handicap to total parking spaces

4. In parking areas with 20 or more spaces, a maximum of 20 percent of the spaces may be designated for compact cars. Such spaces shall be 8 feet wide and 16 feet long and shall be clearly marked “for compact cars only.”

5. All parking areas for 5 or more vehicles shall be designed so that vehicles need not back directly into a public street but can enter and leave the parking area in a forward motion.
6. All parking shall be accessible from a street or driveway. A minimum driveway width of 24' is required for two way traffic.
7. Every parking lot or area with 10 or more off-street spaces shall be separated from the street or highway by a raised curb, planting strip, wall or other suitable barrier of not less than 5' wide against un-channeled motor vehicle entrance or exit, except for necessary access ways or exits.
8. Drive-through establishments such as fast order and pick-up, automatic bank teller and similar uses shall provide no fewer than 5 waiting spaces for each drive-through lane. This is in addition to the space for the car being serviced.
9. Where a parking lot is a main use, such lot shall be enclosed by a fence or wall.

#### **2205. Off-Site and Common Parking**

1. Nothing in this Article shall be construed to prevent collective provision of off-site parking facilities for 2 or more nonresidential buildings or uses. However, the total of such off-site parking facilities provided collectively shall be not less than the sum of requirements for the various uses compiled separately and provided that such off-site parking is not farther than 500 feet from the use farthest from the parking area. The Township Commissioners must approve off-site facilities.
2. Two (2) or more nonresidential uses may provide for required parking in a common parking area, provided that such area is on or adjacent to such uses. The number of spaces required in such a common parking area may be reduced below the sum of the total requirements if it can be demonstrated to the CEO that the hours or days of peak parking demand for the uses are so different that a lower overall total of parking spaces will adequately provide for the uses to be served. In such case sufficient parking shall be provided to meet the minimum needs of the use that requires the greater parking area.

#### **2206. Design of Off-Street Loading Facilities**

1. The minimum size loading space shall be 50 feet long by 12 feet wide, with an overhead clearance of 14 feet, exclusive of drives and maneuvering space, and located entirely on the lot being served. Any overhead canopy should extend a minimum of 4 feet beyond a loading dock.
2. All loading spaces shall have adequate access from a street or way that does not block or interfere with required parking as specified in Section 2203. This required loading space will be provided in addition to established requirements for patron and employee parking.
3. Every building or use of land consisting of over 5,000 square feet of gross floor

area designed or used for commercial or industrial uses shall be provided with loading spaces as follows:

Total Gross Floor Area	Number of Loading Spaces Required
Between 5001 and 15,000 sq. ft.	1 space
15,001 to 50,000 sq. ft.	2 spaces
50,001 to 100,000 sq. ft.	3 spaces
Each additional 100,000 sq. ft.	1 additional space

4. In no case shall public rights-of-way be used for loading or unloading of materials. Furthermore, no loading dock or space shall be located or arranged in such a way that it is necessary to back any vehicle into or off any public right-of-way or require the use of any public right-of-way maneuvering space.
5. All accessory driveways and entrance ways shall be graded, paved and drained to Township standards to the extent necessary to prevent nuisance of dust, erosion, or excessive water flow across streets and adjoining properties.
6. All off-street loading berths shall be provided on either the side or rear of the lot. In no case shall off-street loading berths be provided in the front of the lot.
7. Such facilities shall be designed and created to constitute, at no time, a nuisance, hazard, or impediment to traffic.

**2207. Screening and Landscaping Requirements**

1. Screening between any parking area and the street line shall be effective at the time of occupancy, subject to the following provisions:
  - a. All off-street parking areas that provide more than five (5) parking spaces shall be screened from any abutting property in a more restrictive zoning classification.
  - b. Effective screening may be accomplished through the use of the following: plant materials, fencing or walls and/or mounding through the use of an earthen berm forming a continuous visual buffer.
  - c. The area for planting and fencing, walls or earthen berms shall not extend beyond the street line.
  - d. When planted visual screens are employed, the following shall apply:
    - (1) A buffer planting strip shall be provided. It shall be a minimum of 5 feet in width unless specifically required otherwise in this Ordinance.

- (2) Planted visual screens shall be of sufficient height and density to constitute a continuous visual screen 6 feet in height at the time of planting except as provided below.
  - e. Whenever fencing or walls are employed, they shall meet the provisions of the Tinicum Township Fence Ordinance No.709.
  - f. Whenever earthen berms are employed, the effective height of the continuous visual screen shall be not less than 5 feet.
2. Landscaping within any parking area which provides twenty (20) or more parking spaces shall be subject to the following provisions:
- a. Off-street parking areas shall be landscaped to reduce wind and air turbulence, heat, noise and the glare of automobile lights; to reduce the level of carbon dioxide; to provide shade; to improve stormwater drainage problems; to replenish the groundwater table; and to provide for a more attractive setting.
  - b. The interior of each parking lot shall have at least one, 3 inch- caliper deciduous shade tree for every 15 parking spaces if there are no existing shade trees to satisfy this requirement. Shrubs and other plant materials are encouraged to be used to complement the trees but shall not be the sole contribution to the landscaping. These trees shall be in addition to those required as an effective screen. Trees selected for landscaping in parking areas shall be of a species proven to be salt and dust resistant.
  - c. Landscaped areas at least 5 feet wide shall be provided around the periphery of parking areas. Such areas shall, at a minimum, extend the full length for necessary access ways, to prevent the encroachment of moving vehicles into parking areas.
  - d. Planted landscaped islands between every 20 parking spaces or at the end of each parking row, whichever is less, shall be provided and shall be the length and width of the parking spaces.
  - e. Existing plant material and trees with a caliper of 6 inches or more shall be preserved wherever possible during construction. Such existing plants may be credited toward the amount of required plantings.

## **ARTICLE 23:**

### **SIGNS**

#### **2300. Purposes**

The purposes of this Article are to regulate the types and dimensions of signs in the various zoning districts of Tinicum Township, to recognize the commercial communication requirements of all sectors of the business community, to protect the public from damage or injury caused or attributable to distractions and obstructions from improperly designed or located signs, to safeguard property values and to assure that signs are consistent and harmonious in relation to the buildings and areas where they are placed.

#### **2301. Computation of Sign Area and Height**

The area of any sign shall be determined as follows:

1. When a sign consists of letters, numbers and/or logos, and is not a lettered board, the size of such sign shall be measured by the geometric shape formed by the extreme outside edge of the largest letters, numbers, or logos continued on the sign.
2. When a sign consists of a lettered board, the size of such sign shall be determined by calculating the area of the lettered board.
3. When a sign has more than one face, the area shall be computed by adding together the area of all sign faces visible from any one point. Except as specifically noted otherwise, when two identical sign faces are placed back to back so that both faces cannot be viewed from any point at the same time and when such sign faces are part of the same sign structure and are not more than 48 inches apart, the sign area shall be computed by the measurement of one of these faces.
4. The height of a sign shall be computed as the distance from the base of the sign at normal grade to the top of the highest attached component of the sign. Normal grade shall be construed to be the lower of (1) the existing grade prior to construction or (2) the newly established grade after construction, exclusive of any fill, berms, mounding, or excavating solely for the purpose of locating the sign. In cases in which the normal grade cannot reasonably be determined, sign height shall be computed on the assumption that the elevation of the normal grade at the base of the sign is equal to the elevation of the nearest point of the crown of a public street or the grade of the lane at the principal entrance to the main structure on the lot, whichever is lower.

#### **2302. Sign Restrictions and Standards**

1. Prohibited Signs.

It is unlawful to erect or maintain the following signs:

- a. Flashing, blinking, twinkling, spinning, animated inflatable, aerial, crane,

or lighted moving signs including automatic color changing and rotating lamps and other moving objects that call attention to the sign. However movable digital signs shall be permitted in the form of wall signs or free standing signs, provided that their size shall not exceed 20 square feet.

- b. Wall bulletins or any other signs painted directly on the facade of a building or other structure.
- c. Curb or sidewalk signs or signs painted, attached, or suspended from any outdoor bench, chair, or similar structure.
- d. Signs, letters, posters, and advertisements that are tacked, pasted, tied, or otherwise affixed to poles, posts, buildings, fences, or other structures located on public property or within public rights-of-way.

## 2. General Restrictions and Standards

The following restrictions shall apply to all permitted signs:

- a. No sign shall be located, arranged, or placed in a position where it will cause danger to traffic or will interfere with traffic through glare; block required sight lines for streets, sidewalks or driveways; cause confusion with a traffic control device by reason of color, location, shape or other characteristics; or through any other means.
- b. Except for traffic signs, no sign shall be erected within the right-of-way lines of any public street, nor shall any such sign be closer than 10 feet to the right-of-way line of a public street, unless specifically authorized by other ordinances and regulations of the Township or other governmental bodies or agencies having jurisdiction or regulatory authority in the matter.
- c. Every sign must be constructed of durable materials and shall be solidly and firmly attached, supported, and/or anchored to the supports or framework.
- d. Every sign must be kept in good condition and repair. Any sign which is allowed to become dilapidated, shall be removed by and at the expense of the landowner or lessee of the property on which it is located.
- e. Where an establishment moves from or vacates a particular address or premises, the owner of such building or premises shall, within 30 days, remove any sign and sign structure that was displayed by such establishment. However, this provision shall not apply where a new establishment at the same address or location shall continue or assume the same name as the establishment that vacated the premises.

## 3. Freestanding Signs

- a. The bottom or lowest edge of any freestanding sign shall be no closer to the

ground than eight (8) feet. At least six (6) feet of the upper portion of the eight (8) foot space shall be open and unobstructed. No more than two (2) feet above the ground level can be devoted to and maintained for flowers, ground covers and low spreading shrubs. If such plantings are installed, they shall be maintained at the maximum height of two (2) feet and shall be free of weeds, debris, and other undesirable material.

- b. All single-post freestanding signs shall be made of metal. All such posts shall be embedded in the ground at least three (3) feet six (6) inches unless otherwise directed by the CEO.
- c. There shall be a distance of not less than 75 feet between freestanding signs.

4. Ground Signs

- a. The top edge of a ground sign shall be a maximum of five (5) feet above ground level.
- b. Ground signs shall be supported and permanently placed by embedding, anchoring, or connecting the sign in such a manner as to incorporate it into the landscape or architectural design scheme.
- c. Ground signs shall be illuminated by indirect, concealed light only.

5. Window Signs

A maximum of 25 percent of the total window area may be used for permanent signs that are etched, painted, or permanently affixed to the window.

6. Temporary Signs

- a. The use of any temporary sign or banner shall require a permit which shall be effective for not more than 30 days, and not more than three (3) permits shall be authorized in any one (1) calendar year. Temporary signs for institutional or non-profit organizations are exempt from this regulation and shall be subject to approval by the Board of Commissioners.
- b. Temporary signs shall be removed immediately upon expiration of the permit.
- c. The cost of permits for temporary signs shall be determined by the Township Commissioners.
- d. The size of these signs shall not exceed one (1) square foot of sign area for every linear foot of building width or, where the sign is not related or attached to a building, its size shall not exceed 25 percent of that for permanent signs in the district.

- f. No temporary sign may be placed in a location where it may deter the flow of pedestrian traffic or impair the vision of any pedestrian or motorist or cause a safety hazard or inconvenience.
7. Light-pole-mounted banners. The use of single- or double-faced banners mounted on light poles shall be permitted within off-street parking areas, subject to weekly inspections by the owners as well as those inspections and permitting as provided for in § 395-59 with the following restrictions:
- a. Banners shall be attached to a permanently affixed light pole, mounted on a frame with bracketed assemblies which must be constructed of durable stainless steel or other similar material not subject to rusting and capable of withstanding wind loads in accordance with the International Building Code (IBC).
  - b. No more than two banners may be mounted on any one light pole;
  - c. Banner shall be made of Lexam or other similar material not subject to shredding, fading or tearing;
  - d. Banners shall maintain a minimum clearance of eight feet from the ground to the bottom of the banner;
  - e. No single banner shall exceed three feet in width or eight feet in height.
  - f. Banners shall not be faded, torn, or excessively worn;
  - g. Banners shall not be placed in any area designated as a public right-of-way without the prior approval of the Board of Commissioners;
  - h. Banners shall not be placed in a location where it may deter the flow of pedestrian traffic or impair the vision of any pedestrian or motorists or cause a safety hazard or inconvenience;
  - i. Banners shall not be placed on any public utility pole, support wire, tree, or other structure without the prior approval of the Tincum Township Board of Commissioners.

**2303. Signs for Which a Permit Is Not Required (Exempt Signs)**

The following signs are exempt from the need to secure a permit:

- 1. Public notice, warning, or official traffic sign required by a federal, state or local law, regulation, or ordinance.
- 2. Building markers that only include building name, date of construction or historical data on an historic site, provided that there is only one (1) per building with a maximum area of six (6) square feet.

3. Flags of the United States, the Commonwealth of Pennsylvania, foreign nations having diplomatic relations with the United States or any other flag adopted or sanctioned by an elected legislative body of competent jurisdiction, provided that such flag does not exceed 60 square feet in area and shall be flown from a pole not more than 40 feet in height.
4. Incidental signs containing no commercial message of any kind, provided that such signs do not exceed eight (8) square feet.
5. Signs advertising the sale or rental of the premises or lot upon which they are erected, provided that there is no more than one (1) such sign per street frontage. Such sign shall be neither illuminated nor exceed six (6) square feet in residential districts and 20 square feet in nonresidential districts. All such signs shall be removed on or before the date of settlement.
6. Signs advertising the development of the premises where they are erected. Such signs shall not exceed six (6) square feet in residential districts and 20 square feet in nonresidential districts.
7. Nameplate signs on private residences, provided that they do not exceed 144 square inches.
8. Decorations for a recognized officially designated holiday, provided that they do not create a traffic or fire hazard.
9. Yard sale or garage sale signs, provided that they do not exceed two (2) square feet and shall be removed within 24 hours after such sales.
10. Signs announcing a political, educational, charitable, civic, religious, athletic, or similar campaign or event, provided that such signs are erected for a period not to exceed 30 days or more than four (4) times in any calendar year for a maximum annual total of 120 days. Such signs shall not exceed eight (8) square feet.
11. Temporary banners denoting special events.
12. Changeable copy signs. These signs shall be permitted for churches, schools, and other uses that by their nature require changeable copy signs, provided that only one (1) such sign shall be permitted. However, in the case of a corner property with a frontage in excess of 100 feet, one (1) additional sign is permitted on the side of the property. The size of such signs shall not exceed 16 square feet.

#### **2304. Signs for which a Permit is Required**

The following signs, as described under each zoning district or group of districts, are permitted, provided that they meet the applicable conditions in Sections 2301 and 2302 and a sign permit has been obtained.

1. Signs in Residential Districts. The following types of signs and no others shall be

permitted in the R-1, R-2, and R-3 Residential districts:

- a. Nameplate signs, not exceeding 288 square inches.  
Not more than one (1) such sign per dwelling shall be permitted.
- b. Identification signs for apartment buildings or complexes, schools, churches and similar permitted uses other than individual dwellings, provided that:
  - (1) Such signs shall be freestanding signs or wall signs only.
  - (2) Not more than one (1) wall sign and one (1) freestanding sign shall be permitted for each frontage.
  - (3) The size of freestanding signs and wall signs shall not exceed 16 square feet.
- c. Signs identifying nonresidential uses permitted as valid nonconforming uses, provided that they meet the requirements in Section 2304.1.b. above.
- d. Signs identifying major home occupations and home professional offices (accessory use signs), family day care homes, and community residence facilities.
  - (1) Only wall signs shall be permitted.
  - (2) Wall signs shall not exceed six (6) square feet.
  - (3) A professional office or home occupation may display only one (1) wall sign.
- e. Except for signs for uses noted in Section 2304.1.c above, illumination, where provided, shall be by external white light only.

2. Signs in the C – 1 Commercial District.

The following types of signs and no others shall be permitted, and the following requirements shall apply in the C-1 District:

- a. Signs permitted in residential districts, subject to Section 2304.1.
- b. Wall signs, freestanding signs, ground signs, movable digital signs, awning or canopy signs, movable digital signs and window signs. However, movable digital signs will require a special exception.
- c. There shall be not more than one (1) wall sign for each frontage.
- b. The size of wall signs shall not exceed 30 square feet.

- c. Not more than one freestanding sign or ground sign shall be permitted for each frontage.
- d. The size of freestanding signs, ground signs and movable digital signs shall not exceed 20 square feet.
- e. Awning signs or canopy signs may be substituted for wall signs with the requirements for wall signs.
- f. Window signs shall comply with Section 2302.5.
- g. Signs in shopping/business centers in the C-1 District.
  - (1) Where a freestanding sign identifies the shopping center, the size of such sign shall not exceed 50 square feet. One such sign shall be permitted at each frontage.
  - (2) Individual establishments within the shopping centers may be identified on the same freestanding sign structure as that containing the name of the shopping center or on separate signs. In either case, the sign area allotted for individual establishments shall not exceed 10 square feet.
  - (3) Not more than one (1) wall sign not exceeding 20 square feet shall be permitted at an individual establishment. On corner lots, one additional wall signs not exceeding ten (10) square feet shall be permitted.
  - (4) Awning signs or canopy signs may be substituted for wall signs subject to Section 2304.2.d above.
  - (5) Window signs shall comply with Section 2302.5.

3. Signs in the C-2 Commercial District

The following signs shall be permitted, and the following requirements shall apply in the C-2 Commercial district:

- a. Any sign permitted in the C-1 district as per Section 2304.2. However, digital movable signs, which shall not exceed 20 square feet, shall require a special exception.
- b. Not more than one (1) freestanding sign listing the individual establishments and not more than two (2) freestanding signs identifying the business / office center shall be erected for each exterior road frontage, subject to the following requirements:
  - (1) The size of the freestanding sign shall not exceed 250 square

feet; however, where the sign is either located along an expressway (I-95) or is clearly intended to convey its message to motorists on the expressway, the size of such sign may be increased to 450 square feet.

- (2) The height of the sign shall not exceed 30 feet; however, this height may be increased to a maximum of 50 feet where the sign is located along an expressway or is clearly intended to convey its message to motorists along the expressway.
  - (3) The distance between sign faces shall not exceed six (6) feet.
  - (4) All signs shall be located not less than 20 feet from the street or highway right-of-way line.
- c. In addition to the freestanding signs provided for in subsection (b) above, one (1) freestanding sign listing the individual establishments shall be permitted at each interior access road into the business/office center, provided that:
- (1) The total area of either or both signs combined shall not exceed 400 square feet.
  - (2) No sign shall exceed 25 feet in height. However, in the interest of public safety, a sign of a greater height may be authorized by the ZHB.
- d. Each occupant of a building containing 30,000 sq. ft. or less of gross floor area and having direct access to a parking area shall be permitted two (2) signs, provided that:
- (1) The signs shall be freestanding or wall signs.
  - (2) The size of such signs shall not exceed 50 sq. ft. and the length shall not exceed ten (10) feet.
  - (3) The freestanding signs shall be located in the immediate vicinity of the access drive to the parking area.
- e. Each occupant of a building having more than 30,000 but less than 100,000 square feet of gross floor area shall be permitted two signs, provided that:
- (1) The signs shall be freestanding or wall signs.
  - (2) The size of such signs shall not exceed 75 square feet. and the length shall not exceed 20 feet.
- f. Each occupant of a building containing more than 100,000 square feet of

gross floor area shall be permitted the following signs:

- (1) Not more than two (2) signs shall be permitted on each side of the building.
  - (2) Not more than two (2) signs shall be permitted for any one occupant.
  - (3) Such signs shall be freestanding or wall signs.
  - (4) The size of any sign shall not exceed 200 sq. feet and the length shall not exceed 35 feet.
- j. No sign shall be illuminated except by concealed or indirect lighting, attached to the sign itself.
- k. At each public entrance to a multi-occupancy building, there shall be permitted not more than one (1) directory sign identifying the occupants of the building, provided that:
- (1) The sign shall be a freestanding or wall sign.
  - (2) The sign shall be located in the immediate vicinity of the public entrance to the building.
  - (3) The size of the sign shall not exceed 200 square feet.
- l. Directional signs such as “entrance,” “exit,” pickup,” and “loading area,” shall be permitted, provided that such signs shall not exceed an area of 30 square feet.

4. Signs in the C-3 Planned Commercial / Office District.

The following types of signs and no others, and the following requirements shall apply in the C-3 district:

All signs permitted in the C-2 district, subject to the requirements of Section 2304.3 above.

5. Signs in the C-4 & C-4A Commercial-Industrial Districts

The following types of signs and the following requirements shall apply in the C-4 and C-4A Districts:

a. Signs Identifying Establishments in Individual Buildings

- (1) The types of signs permitted in these districts shall be wall signs, freestanding signs, ground signs, canopy signs, and awning signs.

- (2) There shall be not more than one (1) wall sign for each frontage.
- (3) The size of the wall sign shall not exceed one and one-half (1 1/2) square feet of sign area for each linear foot of building width.
- (4) In the case of a corner property, the size of the wall side on the long side shall not exceed 50 percent of the area of the wall sign permitted at the front of the building.
- (5) Canopy, signs, awning signs and wall signs shall not be combined on same road frontage. Only one of these signs shall be permitted.
- (6) There shall be not more than one freestanding sign or ground sign for each frontage that shall not exceed one (1) square foot of sign area for every foot of building width.
- (7) Freestanding signs and ground signs shall comply with Sections 2302.3 and 2302.4.
- (8) Canopy and awning signs may be substituted for wall signs and must comply with the requirements for wall signs as noted in Section 2304.5.a.(3) above.

b. Signs Identifying Industrial Parks or Business Centers

- (1) One (1) freestanding sign or ground sign identifying the industrial park or business center shall be permitted along each frontage.
- (2) The freestanding sign or ground sign identifying a business center or industrial park shall not exceed 144 square feet.
- (3) Where the freestanding sign or ground sign contains both the name of the industrial park or business center and the names of the individual establishments therein, each establishment may be allotted a sign area of not more than 12 square feet, in addition to the 144 square feet devoted to the business center or industrial park.
- (4) The size of the freestanding sign or ground sign that contains only the names of the individual establishments shall not exceed 144 square feet.
- (5) Wall signs, canopy signs and awning signs shall not be combined on the same frontage. Only one type sign shall be

permitted at any frontage.

- (6) The size of wall signs, canopy, signs and awning signs shall not exceed one (1) square foot of sign area for each foot of building width.

6. Signs in I-B Industrial Business District.

The following types of signs and no others, and the following requirements, shall apply in the I-B Industrial-Business District:

All signs permitted in the C-2 district, subject to the requirements of Section 2304.3 above.

7. Signs in HI Heavy Industrial District.

The following types of signs and no other shall be permitted, and the following requirements shall apply in the HI district:

- a. Wall signs, freestanding signs, ground signs, canopy signs, awning signs, and window signs.

- (1) Not more than one (1) freestanding sign or ground sign shall be permitted for each frontage, subject to Sections 2302.3 and 2304.4.
- (2) The size of freestanding signs shall not exceed one and one-half (1 1/2) square feet of sign area for each foot of building width.
- (3) Not more than one (1) wall sign for each frontage shall be permitted.
- (4) The size of wall signs shall not exceed two (2) square feet of sign area for each foot of building width.
- (5) Canopy and awning signs shall follow the regulations for such signs as noted in Section 2304.5, relating to signs in the C-4 and C-4A Districts.

8. Signs in W-1 Waterfront District

The following types of signs and no others shall be permitted, and the following requirements shall apply in the W-1 Waterfront district:

- a. For residential uses, the relevant sign regulations in Section 2304.1 (Signs in Residential Districts) shall apply.

- b. For commercial uses, the relevant sign regulations in Section 2304.2 (Signs in the C-1 Commercial District) shall apply.
- c. For institutional uses, the relevant sign regulations in Section 2304.1 (Signs in Residential Districts) shall apply.
- d. For recreational uses, the relevant sign regulations in Section 2304.10 (Signs in the W-2 District) shall apply.

9. Signs in the W-1A Waterfront District

Signs in the W-1A district shall be in accordance with the applicable provisions of the HI Heavy Industrial District as per Section 2304.6

10. Signs in the W-2 Waterfront District

The following types of signs and no others shall be permitted, and the following requirements shall apply in the W-2 district:

- a. Wall signs, freestanding signs, and ground signs.
- b. Wall signs
  - (1) Wall signs shall have an area not greater than one (1) square foot of sign area for each two (2) feet of building width
  - (2) Not more than one (1) sign shall be attached to the principal building
- c. Free standing signs and ground signs
  - (1) These signs shall be permitted in front of the principal building, provided that there is no wall sign attached to that building.
  - (2) If permitted, there shall be not more than one (1) freestanding sign or ground sign in front of the principal building.
  - (3) A freestanding sign or ground sign identifying an outdoor open space or recreation resource shall be permitted at the street line.
  - (4) The size of the free standing or ground sign in (3) above shall not exceed 30 square feet.

11. Signs in the OR Outdoor Recreation District

In accordance with the applicable sign regulations for W-2, except that wall signs

shall not exceed ten (10) square feet.

12. Signs in the SU Special Use District

The following types of signs and no others and the following requirements shall apply in the AP Airport district:

- a. The types of signs permitted shall be wall signs, freestanding signs, and roof signs.
- b. Wall signs, free standing signs and roof signs shall not exceed one (1) square foot of sign area for each foot of building width.
- c. Sections 2302.3 and 2302.4 relating to freestanding signs and ground signs, shall not apply to the Airport district.
- d. All other applicable provisions of this Section shall apply to the Airport district.

13. Signs in the Industrial Heritage Corridor Overlay district (IHCO)

Where the signage requirements in an underlying zoning district conflict with the guidelines specified in the Delaware County Industrial Heritage Route 291/13 Beatification and Greenway Plan of 2002 and the Delaware County Route 291/13 Landscaping and Signage Project of 2005 the guidelines outlined in the Rt. 291/13 studies shall prevail.

**2305. Billboards**

Billboards shall comply with Tinicum Township Ordinance No. 657.

**2306. Inspections and Permits**

1. Except as otherwise provided in Section 2303 relating to exempt signs, no sign shall be erected in the Township until a permit therefore has been obtained in the following manner:
  - a. An application in writing shall be made to the CEO by the person desiring the permit.
  - b. The application submitted to the CEO shall give full particulars regarding the size, shape, material, and supports of the sign as well as a sketch or sketches showing the location of the sign on the building or lot, the distance from the curb line, and the height of the sign. The application shall be sufficiently specific to enable the CEO to determine whether the sign complies with this Article as well as with any other ordinance or regulation of the Township relating thereto.
  - c. Such application shall be accompanied by a fee as the Township

Commissioners may establish from time to time by resolution, which shall be for the use of the Township and which is hereby imposed in order to cover or partially cover the costs of investigation, inspection, and other costs associated with the review and construction of such sign.

- d. If the person submitting the application is not the owner of the property upon which the sign is to be erected, the written consent of the owner of the property on which the sign is to be erected shall accompany the application.
2. Whenever any sign is replaced by another sign, enlarged in any manner, or altered, dismantled, damaged, or otherwise destroyed to the extent of more than 50 percent of its value, a permit shall be required as provided in this Section (2306) before the sign is replaced, enlarged, altered, or repaired.
3. If the CEO shall find that any sign or other advertising structure is unsafe or insecure or is a menace to the public or has been constructed or erected or is being maintained in violation of the provisions of this Article, he shall give written notice thereof to the permittee. If the permittee fails to remove or alter the structure so as to comply with the standards herein within ten (10) days after such notice, such sign or other advertising structure may be removed or altered to comply by the CEO at the expense of the permittee or owner of the property upon which it is located. The CEO shall refuse to issue a permit to any permittee or owner who refuses to pay costs so assessed. The CEO may cause any sign or other advertising structure that causes immediate peril to persons or property to be removed summarily and without notice.
4. The CEO shall cause a routine inspection of all signs in the Township to be made at least once every three (3) years and at any other time when he deems such inspection necessary. He shall report to the Township Commissioners all unsafe signs, all signs failing in any respect to conform to the requirements of this Article, and all signs not licensed by the Township.

### **2307. Nonconforming Signs**

Signs which are nonconforming, or which identify nonconforming uses shall be governed by the following requirements.

1. A sign that is nonconforming at the effective date of this Article may be continued although such sign does not conform with the provisions of this Article, but the size of any such nonconforming sign shall not be enlarged.
2. No nonconforming sign that has been damaged to more than 50 percent of its value or has been removed or discontinued for 90 days shall be repaired, rebuilt, or replaced, except as a conforming sign.
3. If a nonconforming use of a building ceases or is discontinued for a continuous period of 12 months or more and such nonconforming use is deemed to be abandoned as per Section 2705 of this Ordinance, any nonconforming sign on the

premises shall also be considered abandoned, and any subsequent signs erected or maintained on the premises shall be in conformity with the provisions of this Article.



**ARTICLE 24:**  
**PERFORMANCE STANDARDS**

**2400. Purpose**

The purpose of this Article is to ensure adequate protection for the residents of the Township against the possible negative effects of certain uses, processes, or activities applicable to all districts but particularly the Special Use district and commercial and industrial districts.

**2401. Administration**

1. Interpretation and Application of Standards
  - a. The performance standards contained herein shall be the minimum standards to be met and maintained by all uses established after the effective date of this Ordinance. Standards established by the Pennsylvania Department of Environmental Protection or the United States Environmental Protection Agency shall apply where those standards are more restrictive than the standards set forth below.
  - b. If any existing use or building or other structure is extended, enlarged, or reconstructed, the performance standards herein shall only apply to such extended, enlarged, or reconstructed portion or portions of such use, building, or other structure.
2. Application Submittal
  - a. Applications for industrial and airport dependent uses shall be accompanied by a certification from a professional engineer registered in the Commonwealth of Pennsylvania that the proposed use can meet the performance standards set forth in this Ordinance. All applications shall include, but shall not be limited to, the following informational items:
    - (1) Plans of existing and/or proposed construction and development;
    - (2) A description of existing or proposed machinery, processes, and products;
    - (3) Specifications for the mechanisms and techniques used or proposed to be used in restricting possible dangerous or objectionable conditions as set forth in this Ordinance; and
    - (4) Measurement or estimate of the amount or rate of emission of any dangerous or objectionable elements as set forth in this Ordinance.
3. Application Review

All applications for industrial uses and airport dependent uses shall be reviewed by the Township Engineer for compliance with the performance standards listed in Section 2402. No application for an industrial use or airport dependent use shall be approved until it is certified in writing by the Township Engineer that the proposed use can meet these performance standards.

4. Enforcement and Costs
  - a. The CEO shall investigate any purported violation of the performance standards noted below. Enforcement procedures shall be in accordance with Article 25.
  - b. If violations, as alleged, are found, costs of such determinations shall be charged against those responsible for the violations, in addition to such other penalties as may be appropriate. If, however, it is determined that no violation exists, the Township shall pay for the costs of the determination.

## **2402. Performance Standards**

1. Air Quality
  - a. There shall be no emission of smoke, ash, dust, fumes, vapors, gases, or other matter, toxic or noxious, to air which violates the Pennsylvania Air Pollution Control Act of 1959, as amended, including the standards set forth in Chapter 123 (Standards for Contaminants) and Chapter 131 (Ambient Air Quality Standards), Article 111, Title 25, of the Pennsylvania Environmental Protection Code.
  - b. No user shall operate or maintain or be permitted to maintain any equipment, installation or device which, by reason of its operation or maintenance, will discharge contaminants into the air in excess of the limits prescribed herein unless he shall install and maintain in conjunction therewith such control as will prevent the emission into the open air of any air contaminant in a quantity that will violate any provision of this Ordinance.
2. Fire and Explosive Hazards

All activities and all storage of flammable and explosive material at any point shall be provided with adequate safety devices against the hazard of fire and explosion, adequate firefighting and fire suppression equipment, and devices as detailed and specified by the laws of the Commonwealth of Pennsylvania. All buildings and structures and activities within such buildings and structures shall conform to the latest adopted International Construction Code, the National Fire Code, and other applicable Township ordinances. Any explosive material shall conform to the requirements of Chapter 211, Title 25, Rules and Regulations, Pennsylvania Department of Environmental Protection, for storing, handling, and use of explosives.

3. Glare and Heat

No direct or sky-reflected glare, whether from floodlights or high temperature processes such as combustion, welding, or otherwise, visible at the lot line, shall be permitted. These regulations shall not apply to signs or floodlighting of parking areas. There shall be no emission or transmission of heat or heated air discernible at the lot line.

4. Liquid and Solid Waste

There shall be no discharge at any point into any public or private sewerage system or watercourses or into the ground of any materials in such a way as will contaminate or otherwise cause the emission of hazardous materials in violation of the laws of Tinicum Township and the Commonwealth of Pennsylvania, and specifically of Chapters 73, 95, and Article VII, Title 25, Pennsylvania Department of Environmental Protection, Rules and Regulations.

5. Noise

No person shall operate or cause to be operated on private or public property any source of continuous sound (any sound which is static, fluctuating or intermittent with a recurrence greater than one (1) time in any fifteen (15) second interval) in such a manner as to create a sound level which exceeds the limits set forth in the following table when measured at or within the property boundary of the receiving land use.

<b>Receiving Land Use Category</b>	<b>Time</b>	<b>Sound Limit</b>
Residential or Institutional	1) 7:00 a.m. – 10:00 p.m.	65 dBA
	2) 10:00 p.m. – 7:00 a.m. Plus, Sundays and legal holidays	50 dBA
Commercial or Business	1) 7:00 a.m. – 10:00 p.m.	65 dBA
	2) 10:00 p.m. – 7:00 a.m. Plus, Sundays and legal holidays	60 dBA
Industrial	All times	70 dBA

- a. For any source of sound which emits a pure tone, the maximum sound level limits set forth in the above table shall be reduced by five (5) dBA. For any source of sound which emits an impulsive sound (a sound of short duration, with an abrupt onset and rapid decay and an occurrence of not more than one (1) time in any fifteen (15) second interval), the sound pressure level shall not exceed twenty (20) dBA over the ambient sound level, regardless of time of

day or night of receiving land use, using the "fast" meter characteristics of a Type II Meter, meeting the ANSI specifications S1.4.-1971.

- b. The maximum permissible sound levels as listed in the above table shall not apply to any of the following noise sources:
  - (1) The emission of sound for the purpose of alerting persons to the existence of an emergency or associated practice drills.
  - (2) Emergency work to provide electricity, water or other motor vehicle operations shall not exceed the noise levels established in Chapter 157 of Title 67 of the Pennsylvania Code of Regulations, Subchapter B, Established Sound Levels.
- c. Motor vehicle operations shall not exceed the noise levels established in Chapter 157 (Established Sound Levels), Article VII, Title 67, Pennsylvania Transportation Code.

6. Odors

No use shall emit odorous gases or other odorous matter in such quantities so as to be offensive at any point on or beyond its lot lines. The guide for determining such quantities of offensive odors shall be the fifty (50) percent response level of Table 1 (Odor Thresholds in Air), "Research of Chemical Odors: Part I - Odor Thresholds for 53 Commercial Chemicals," October, 1986, Manufacturing Chemists Association, Inc., Washington, D.C.

7. Vibration

No vibration shall be produced which is transmitted through the ground and exceeds 0.002g peak measured at or beyond the lot line using seismic or electronic vibration measuring equipment, except for repair and construction work.

8. Radioactivity or Electrical Disturbances

There shall be no activities that emit dangerous radioactivity at any point. There shall be no radio or electrical disturbances adversely affecting the operation of equipment belonging to someone other than the creator of the disturbance. If any use is proposed which incorporates the use of any radioactive material, equipment, or supplies, such use shall be in strict conformity with Chapters 221, 225, 227 and 229, Title 25, Article V, Pennsylvania Department of Environmental Protection, Rules and Regulations.

9. Public Health and Safety

No use shall create any other objectionable condition in an adjoining area which will endanger public health and safety or be detrimental to the public use of the surrounding area.





## **ARTICLE 25:**

### **ADMINISTRATION, ENFORCEMENT AND AMENDMENTS**

#### **2500. Purpose**

The purpose of this Article is to set forth procedures for the administration and enforcement of this Ordinance, in accordance with the Planning Code.

#### **2501. Administration**

1. The administration, enforcement, and amendment of this Ordinance shall be in accordance with the provisions of Article VI and any other applicable sections of the Pennsylvania Municipalities Planning Code, Act 247, as amended, hereinafter referred to in this Article as the Planning Code.
2. There shall be a Code Enforcement Officer (CEO) appointed by the Township Commissioners.
3. The CEO shall not hold any elective office in the Township.
4. The CEO shall administer this Ordinance in accordance with its literal terms and shall not have the power to permit any construction, use or change of use which does not conform to this Ordinance.
5. The CEO may be authorized to institute civil enforcement proceedings as a means of enforcing this Ordinance.
6. Duties.

The following duties shall be performed by the CEO:

- a. Enforce all provisions of this Ordinance and all amendments thereto.
- b. Receive, examine, record and file all applications and fees for building permits and issue building permits only for any structure or use that conforms to this Ordinance.
- c. Issue permits for uses and construction by special exception or variance only after such uses or buildings are approved by the Zoning Hearing Board (ZHB), in accordance with the provisions of this Ordinance. Permits requiring approval by the Township Commissioners shall be issued only after receipt of an authorization from the CEO.
- d. Maintain, or cause to be maintained, a map or maps showing the current zoning classification of all land in the Township.
- e. Upon request of the Commissioners, Planning Commission or ZHB, present facts, records, and any similar information to such body on specific requests

to assist these bodies in reaching their decisions.

- f. Receive all required fees
- g. Regularly inspect all areas of the Township to determine if there are any violations of this Ordinance and review the validity of any reported zoning violations.
- h. Issue all necessary stop orders, and order in writing correction of all conditions found to be in violation of this Ordinance. It shall be unlawful for any person to violate any such order lawfully issued by the CEO, and any person violating such order shall be guilty of a violation of this Ordinance.
- i. Maintain, or cause to be maintained, a map or maps showing the current zoning classification of all land in the Township.

7. Appeals from Decisions of the CEO

An appeal from a decision or action of the CEO shall be made directly by a party in interest to the ZHB and such appeal shall be made within 30 days after notice of the decision is made or, if no decision is made, 30 days after the date when a decision is deemed to have been made, in accordance with the Planning Code, as amended.

8. Violations

Whenever a violation of this Ordinance is alleged to have occurred, any person may file a written and signed complaint. Such complaint, stating fully the causes and basis thereof, shall be filed with the CEO who shall record such complaint promptly and immediately investigate and take action thereon as provided in this Ordinance.

**2502. Enforcement**

1. Enforcement Notice

If it appears to the Township that a violation of this Ordinance has occurred, the Township shall initiate enforcement proceedings by sending an enforcement notice to the owner of record of the parcel on which the violation has occurred, to any person who has filed a written request to receive an enforcement notice regarding that parcel and to any other person requested in writing by the owner of record. An enforcement notice shall include the minimum components required in Section 616.1 (c) of the Planning Code.

2. Causes of Action. See Section 617 of the Planning Code.

3. Enforcement Remedies. See Section 617.2 of the Planning Code.

4. Jurisdiction

District justices shall have initial jurisdiction over proceedings brought under Section 617.2 of the Planning Code.

**2503. Permits**

1. Requirement for Permits

A permit shall be required prior to the erection or alteration of any building, structure, or portion thereof, including signs and fences, prior to the use or change in use of a building or land and prior to the change or extension of a nonconforming use or structure.

2. Application for Permits

Application for permits shall be made to the CEO on such forms as may be furnished by the Township. Each application shall contain all information necessary to ascertain whether the proposed erection, alteration, use or change in use complies with the provisions of this Ordinance.

3. Issuance of Permits

- a. No building or use permit shall be issued until the CEO has certified that the proposed building or alteration or the proposed use of the property comply with the provisions of this Ordinance.
- b. Permits shall be granted or refused within 45 days after the date of application. In case of refusal, the applicant shall be informed of his right to appeal to the ZHB.

4. Permits for Trailers or Other Temporary Structures

Prior to the placement or location of a trailer or other temporary structure on a site, a permit shall be obtained from the CEO as noted above in Section 2503. Such temporary permit shall be effective for not more than 90 days and may be renewed. However, the total continuous time for which temporary permits may be issued shall not exceed one (1) year.

5. Expiration of Permits

Permits for the erection, razing, change, alteration or removal of a building shall be valid or effective for a period of not more than six (6) months from the date of issuance thereof and shall thereafter be void, unless the work authorized by such permit shall have been substantially commenced within that period and continues with due diligence from that time forward. In no event shall a zoning permit be construed to authorize development activities for more than a one (1) year, after which a new permit must be sought. If, however, the applicant has been delayed in

proceeding with the work for which the permit was granted for reasons beyond his or her control and demonstrably not due to his or her own negligence, the CEO may renew such permit without additional costs to the applicant.

6. Occupancy Permits

a. Applicability

An occupancy permit shall be deemed to authorize and is required for both initial and continued occupancy and use of the building or land to which it applies. Such permit shall certify that the premises have been inspected and comply with all previously approved plans and all conditions or safeguards attached to the issuance of a zoning permit. It shall also certify that the premises comply with all other applicable requirements of the Township. The following shall be unlawful until an occupancy permit shall have been applied for and issued by the CEO:

- (1) Occupancy and use of a building erected, reconstructed, altered, moved, or any change in the use of an existing building.
- (2) Occupancy use or any change in use of vacant land.
- (3) Any change in use of a nonconforming use.
- (4) Any change in ownership in residential owner-occupied structures and new tenancy in rental facilities.

b. Applications

Application for an occupancy permit shall be made on forms furnished by the Township after the building or part thereof has been erected, the change in use has been completed, or the land placed in use. In the case of a change in ownership or tenancy of an existing residential building, an occupancy permit shall be applied for by the owner of such a building upon the sale or rental respectively. Application for an occupancy permit shall be accompanied by payment of the required fee.

c. Action by the CEO

The CEO shall, within 15 days of application filing, inspect the premises and either certify compliance with the previously approved plans and all conditions and safeguards stated upon issuance of a zoning permit or deny such certification. In the case of a change in use of an existing building or vacant land (when no zoning permit is required), the CEO shall verify compliance with the applicable zoning regulations.

Upon establishment of compliance in any of the aforementioned cases, the

CEO shall note his certification on the occupancy permit form in one column designated for zoning inspections. The certified occupancy permit form shall be forwarded to the CEO for further processing.

If the CEO's certification of the occupancy permit form is denied, the CEO shall state in writing the reasons for such denial.

7. Fees

- a. The Commissioners shall establish by resolution a schedule of fees, charges, expenses and collection procedures for building permits, sign permits, special exceptions, variances, appeals, amendments, and other matters pertaining to this Ordinance.
- b. A schedule of fees shall be posted in the office of the CEO or Township Manager and may be altered or amended by the Board of Commissioners only.
- c. The cost of permits shall be based on a fee schedule as established from time to time by the Commissioners.
- d. No action shall be taken on any application for any special exception, variance, appeal, or other similar matter pertaining to this Ordinance until all application fees, charges and expenses have been paid in full.

8. Enforcement Remedies

9. Persons found to be in violation of this Ordinance shall pay a judgment of not more than \$500 plus all court costs, including reasonable attorney fees incurred by the Township. See Section 617.2 of the Planning Code.

**2504. Amendments**

1. Power to Amend

The regulations, restrictions, boundaries, requirements set forth in this Ordinance may be amended, supplemented, changed or repealed by the Township Commissioners by amending this Ordinance in accordance with Sections 609, 609.1 and 609.2 of the Planning Code.

2. Procedure for Amendment

- a. An ordinance amending, supplementing or changing the district boundaries (Zoning Map) or the regulations established herein may be initiated:
  - (1) By the Board of Township Commissioners, upon its own initiative or upon recommendation of the Planning Commission.

- (2) Upon a petition to the Township Commissioners signed by the owners of 50 percent or more of the owners of the frontage properties of any area which shall be between two (2) streets wherein a change of zoning regulations is being sought.
  - (3) By a landowner requesting an amendment or repeal. In the case of a curative amendment, the special requirements of Section 609.1 of the Planning Code shall apply.
- b. Before voting on the enactment of an amendment, the Commissioners shall hold a public hearing thereon pursuant to public notice. If the proposed amendment involves a map change, notice of said public hearing shall be conspicuously posted along the perimeter of the tract at least one (1) week prior to the hearing.
  - c. The Commissioners shall submit each proposed zoning amendment, other than one prepared by the Planning Commission to the Planning Commission at least 30 days prior to any hearing which is to be held on the proposed amendment to provide the Planning Commission with an opportunity to submit its recommendations prior to final action.
  - d. If, after any public hearing held upon an amendment, the proposed amendment is revised or further revised to include land previously not affected by it, the Commissioners shall hold another public hearing as required by law pursuant to public notice before proceeding to vote on the amendment.
  - e. As required by the Planning Code, a copy of any proposed zoning amendment shall also be sent to the County Planning Commission at least 30 days prior to any hearing on the proposed amendment in order to provide the County Planning Commission an opportunity to submit its recommendations prior to final action on the amendment.
  - f. The Township may offer a mediation option as an aid in completing proceedings authorized in this section. In exercising such an option, the Township and mediating parties shall meet the stipulations of Section 908.1 of the Planning Code.
  - g. Within 30 days after enactment, a copy of the amendment to this Ordinance shall be forwarded to the Delaware County Planning Department.
3. Applications for Amendment. All applications for amendment to this Zoning Ordinance which involve a zoning map change may be required to submit any of the following impact studies, per the discretion of the Commissioners, or any other

information the Commissioners determine necessary for them to render a decision on such application.

- a. Transportation Impact Study. This written study will allow the Township to assess the impact of a proposed amendment on the traffic system. Its purpose is to ensure that the proposed amendment does not adversely affect the traffic network and to identify any traffic problems associated with access from the site onto the existing roads. The study's purpose is also to delineate solutions to potential problems and to present necessary improvements.
- b. Fiscal Impact Study. This **written** study will provide an identification of the economic and fiscal characteristics related to the proposed amendment. The characteristics which shall be presented in narrative form shall include a profile of the Township, County, and School District revenues that the proposal may generate and the Township, County and School District costs it may create.
- c. Environmental Impact Assessment (EIA) Report. This study will provide a written assessment which objectively describes, analyzes and documents both the beneficial and adverse effects of a proposed amendment on the environmental, historic and cultural resources and the measures to be undertaken to mitigate adverse effects in accordance with the provisions set forth in the Ordinance and all other Township ordinances. Specific emphasis shall be directed toward the proposed amendment's effects on and relationship to the applicable site, neighborhood (including areas in adjacent municipalities where applicable) and Township-wide resources, conditions or characteristics. The EIA report shall include text, tables, maps and analyses for the purpose of describing the project site, proposed uses(s), environmental characteristics and the environmental effects of the proposal, to the satisfaction of the Township.



**ARTICLE 26:**  
**ZONING HEARING BOARD**

**2600. Purpose**

The purpose of this Article is to list and describe the powers, procedures, composition and standards for the Zoning Hearing Board as required by the Planning Code.

**2601. Administration and Procedure**

1. Creation of the Zoning Hearing Board

A Zoning Hearing Board for the Township of Tincum shall be appointed by the Township Commissioners and shall be authorized to administer all procedures charged to such Boards in accordance with the provisions of Article IX of the Pennsylvania Municipalities Planning Code, as amended. Hereinafter, as used in this Article, the term "Board" shall refer to the Zoning Hearing Board, and the term "Planning Code" shall refer to the Pennsylvania Municipalities Planning Code, Act 247, as amended.

2. Membership of the Board

The Board shall consist of five (5) residents of the Township. Their terms of office shall be five (5) years and shall be so fixed that the term of office of one (1) member shall expire each year. The Board shall promptly notify the Township of any vacancies. Appointment 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.

3. Removal of Members

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

4. Organization of the Board

a. 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 the majority of all members of the Board but where a majority of members are disqualified to act in a particular matter, the remaining members may act for the Board. As provided for in the Planning Code, the Board may appoint a hearing officer from its own membership to conduct any hearing on its behalf, and the parties may waive further action by the Board as provided in Section 908 of the Planning Code.

- b. The Board shall adopt rules and forms for its procedure in accordance with the provisions of this Ordinance. Meetings of the Board shall be held at the call of the Chairman and at such other times as the Board may determine. Such Chairman, or in his absence the Acting Chairman, may administer oaths and compel the attendance of witnesses. All meetings of the Board shall be open to the public.
  - c. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicate such fact and shall keep records of its examination and other official actions, all of which shall be immediately filed in the Office of the Township Manager and shall be a public record.
  - d. The Board shall submit a report of its activities to the Commissioners as requested.
5. Expenditures for Services

Within the limits of funds appropriated by the Commissioners, 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 as may be fixed by the Commissioners, but in no case shall it exceed the rate of compensation authorized to be paid to members of Commissioners.

## **2602. Powers of the Zoning Hearing Board**

1. Appeals from the Zoning Officer

The Board shall hear and decide appeals where it is alleged that the Code Enforcement Officer (CEO) has failed to follow prescribed procedures or has misinterpreted or misapplied any provision of this Ordinance or the Zoning Map or any valid rule or regulation governing the action of the CEO.

2. Applications

Applications for variances or special exceptions shall include as a minimum the following information:

- a. A sketch plan, at scale, showing the layout of the property, the proposed improvements and alterations thereto and the relationship of the tract to adjacent properties.
- b. A reference to the section(s) of the Ordinance under which the variance or special exception is requested.

Applications for *use variances* may be required to submit any of the following impact studies per the discretions of the Board, or any other

information the Board determines necessary for them to render a decision on such application

- c. Transportation Impact Study. This *written* study will allow the Township to assess the impact of a proposed amendment on the traffic system. Its purpose is to ensure that the proposed amendment does not adversely affect the traffic network and to identify any traffic problems associated with access from the site onto the existing roads. The study's purpose is also to delineate solutions to potential problems and to present necessary improvements.
- d. Fiscal Impact Study. This *written* study will provide an identification of the economic and fiscal characteristics related to the proposed amendment. The characteristics which shall be presented in narrative form shall include a profile of the Township, County, and School District revenues that the proposal may generate and the Township, County and School District costs it may create.
- e. Environmental Impact Assessment (EIA) Report. This study will provide a written assessment which objectively describes, analyzes and documents both the beneficial and adverse effects of a proposed amendment on the environmental, historic and cultural resources and the measures to be undertaken to mitigate adverse effects in accordance with the provisions set forth in the Ordinance and all other Township ordinances. Specific emphasis shall be directed toward the proposed amendment's effects on and relationship to the applicable site, neighborhood (including areas in adjacent municipalities where applicable) and Township-wide resources, conditions or characteristics. The EIA report shall include text, tables, maps and analyses for the purpose of describing the project site, proposed uses(s), environmental characteristics and the environmental effects of the proposal, to the satisfaction of the Township.

### 3. Variances

The Board shall hear requests for variances where it is alleged that the provisions of this Ordinance inflict unnecessary hardship on the applicant. In granting a variance, the Board may attach such reasonable conditions and safeguards, as it may deem necessary to implement the purposes of the Planning Code and this Ordinance.

### 4. Special Exceptions

The Board shall hear and decide requests for special exceptions authorized by this Ordinance in accordance with the standards and criteria set forth in Article 21 and Section 2606.2 below. The Board may attach such reasonable conditions and safeguards, as it may deem necessary to implement the purposes of the Planning Code and this Ordinance.

5. Challenges to the Validity of Ordinance or Map

The Board shall conduct hearings and make decisions and findings in connection with challenges to the validity of any provision of this Ordinance as authorized by Section 909.1 of the Planning Code.

**2603. Hearings and Decisions**

The Board shall conduct hearings and make decisions in accordance with the provisions of Section 908 of the Planning Code.

**2604. Notice of Requirements**

1. Notice of Hearing

In any case where the Board shall hold a public hearing, the Board shall, at the minimum, give notice of such hearing which notice shall state the time and the place of the hearing and the particular nature of the matter to be considered at the hearing:

- a. By publishing a notice thereof once each week for two (2) successive weeks in a newspaper of general circulation in the Township, provided that the first publication shall be not more than 30 days and the second publication shall be not less than 7 days from the date of the hearing.
- b. By mailing or delivering due notice thereof to the applicant and other parties in interest, who shall be at least those persons whose properties adjoin the property in question or are within a 200-foot radius of the property in question.
- c. By mailing or delivering notice thereof to the Commissioners and the CEO.
- d. By conspicuously posting notice of said hearing on the affected tract of land at least one (1) week prior to the hearing.

**2605. Elements of Decisions of the Board**

Decision of the Board shall include the following elements:

- 1. Findings of fact, including a brief summary of relevant testimony and information entered during the proceedings of the Board.
- 2. Citation by quotation or by reference to the specific sections of the local ordinances and/or the Planning Code which are relevant to the case in question.
- 3. Conclusions of the Board enumerating the reasons why such conclusions are deemed appropriate in light of the facts found.
- 4. Ruling of the Board, indicating in writing any stipulations or conditions attached to the ruling.

## 2606. Standards for Zoning Hearing Board Action

In any instance where the Board is required to consider a variance or special exception, the Board shall, among other things, consider the following conditions:

### 1. Planning Code Criteria for Variances

- a. The Board shall hear requests for variances where it is alleged that the provisions of this Ordinance inflict unnecessary hardship on the applicant.
- b. A variance from the terms of this Ordinance shall not be granted by the Board unless and until a written application for a variance is submitted by the applicant who shall have the burden of establishing the presence of all the following conditions where relevant in a given case:
  - (1) That there are unique physical circumstances or
  - (2) 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 to the circumstances or conditions generally created by the provisions of the Zoning Ordinance in the neighborhood or district in which the property is located.
  - (3) That because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the Zoning Ordinance and that the authorization of the variance is therefore necessary to enable the reasonable use of the property.
  - (4) That such unnecessary hardship has not been created by the applicant.
  - (5) That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare.
  - (6) 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.
- c. In granting any variance, the Board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of the Planning Code and this Ordinance.

### 2. Standards for Review of Special Exceptions

- a. In any instance where the Board is required to consider a request for a special

exception, the Board shall consider the following factors where appropriate:

- (1) That the proposed use is appropriate for the site in question in terms of size, topography, natural features, drainage, sewage disposal, water supply, accessibility and availability of public services and that adequate provisions will be made to protect sensitive environmental features such as streams, lakes, wetlands, slopes and mature trees.
  - (2) That the proposed use is compatible with the character of the surrounding neighborhood and will not interfere with or detract from legitimate uses and adjacent properties, and that adequate measures will be provided through building design, site layout, landscaping, planting and operational controls to minimize any adverse impacts caused by noise, lights, glare, odors, smoke, fumes, traffic, parking loading and signage.
  - (3) That the proposed special exception will serve the best interest of the Township, convenience of the community and the public health, safety and welfare.
  - (4) That the proposed use is consistent with the latest, adopted Community Development Objectives for Tincum Township.
  - (5) That the proposed use promotes orderly development, proper population density and the provision of adequate community facilities and services, including police and fire protection.
  - (6) That the proposed use is suitable in terms of its effect on highway safety and traffic circulation, and that access, on-site circulation and parking are adequate in view of anticipated traffic.
  - (7) That the proposed use will provide for adequate off-street parking, as required in Article 22, Parking.
- b. In cases where uses permitted by special exception are not accompanied by specific standards for such uses, the regulations in Section 2103 shall apply.
  - c. Financial hardship shall not be construed as a basis for granting special exceptions.
  - d. In granting any special exception, the Board may attach reasonable conditions and safeguards in addition to those expressed in this Ordinance as it may deem necessary to implement the purposes of the Planning Code and the Ordinance, which conditions and safeguards may relate to, but not be limited to, screening, lighting, noise, safety, aesthetics and the minimization of noxious, offensive or hazardous elements. Such special exception shall be clearly authorized by a provision in this Ordinance and shall, where applicable, comply with the more specific standards relating to such special exception

contained in appropriate sections of Article 21.

**2607. Standards of Proof**

1. For Variances

An applicant for a variance shall have the burden of establishing both:

- a. That a literal enforcement of the provisions of this Ordinance will result in unnecessary hardship, as that term is defined by law, including court decisions; and
- b. That the allowance of the variance will not be contrary to the public interest.

2. For Special Exceptions

An applicant for a special exception shall have the burden of establishing both:

- a. That his application falls within the provisions of this Ordinance which affords to the applicant the right to seek a special exception; and
- b. That the allowance of a special exception will not be contrary to the public interest.

3. Evaluation of the Impact of an Application on the Public Interest

In determining whether the allowance of a special exception or variance is contrary to the public interest, the Board shall consider whether the application, if granted, will:

- a. Adversely affect the public health, safety and welfare due to changes in traffic conditions, drainage, air quality, noise levels, neighborhood property values, natural features and neighborhood aesthetic characteristics.
- b. Be in accordance with the most recently adopted Tincum Township Community Development Objectives.
- c. Provide required parking in accordance with Article 22 of this Ordinance.
- d. Adversely affect the logical, efficient, and economical extension or provision of public services and facilities such as public water, sewers, refuse collection, police, fire protection and public schools.
- e. Otherwise adversely affect the public health, safety, or welfare.

**2608. Expiration of Special Exceptions and Variances**

Unless otherwise specified by the Board, a special exception or variance shall expire if the

applicant fails to obtain a building permit within six (6) months from the date of authorization thereof or fails to commence a substantial amount of work within six (6) months of issuance of the permit for such work.

**2609. Time Limitations and Stay of Proceedings**

See Sections 914.1 and 915.1 of the Planning Code.

**2610. Appeals to Court**

See Article X-A of the Planning Code.

## **ARTICLE 27:**

### **NONCONFORMING USES, STRUCTURES AND LOTS**

#### **2700. Purpose**

Within the districts established by this Ordinance or amendments thereto, there exist certain uses, structures, and lots that were lawful before this Ordinance was enacted or amended but which do not conform to the provisions of this Ordinance or amendment thereto. These uses, structures or lots are referred to as nonconformities. The regulations governing existing nonconforming uses, structures and lots are set forth in this Article and are intended to provide a gradual remedy for the undesirable conditions resulting from such nonconformities. While such nonconformities are generally permitted to continue, these regulations are intended to restrict further investment in such nonconformities and to bring about their gradual reduction.

#### **2701. Continuation**

All existing structures, lots, uses of structures and uses of land that do not conform to the regulations of the district in which they are located after the effective date of this Ordinance or amendment thereto shall be regarded as nonconforming and may be continued so long as they remain otherwise lawful, including subsequent sales of property. Such uses must comply with all safety-related and other applicable regulations.

#### **2702. Enlargement**

A nonconforming use or structure may be extended, enlarged or altered when so authorized as a special exception, provided that the following conditions are met, and a permit is obtained as per Section 2503.

1. It is clear that such enlargement or extension is not materially detrimental to the health, safety and welfare of the surrounding area.
2. The proposed enlargement or extension only occurs on the tract where the nonconformity is currently located.
3. The area devoted to the nonconforming use shall not be increased by more than 25 percent. The nonconforming structure shall not be increased by more than 25 percent of its cubic content.
4. Any extension or enlargement of a building shall conform to the area, height and setback regulations of the district in which it is located.
5. Not more than one (1) extension or enlargement to a nonconforming use or structure shall be granted.

#### **2703. Change of Use**

Once changed to a conforming use, no structure or land shall be permitted to revert to a nonconforming use. A nonconforming use may be changed to another equally restrictive or more restrictive nonconforming use, when authorized as a special exception by the Zoning Hearing

Board (Board) subject to the following conditions:

1. The applicant shall show that the nonconforming use cannot be reasonably changed to a conforming use.
2. The applicant shall show that the proposed change will be no more objectionable in external effects than the existing nonconforming use or will be more appropriate than the existing nonconforming use with regard to:
  - a. Traffic generation and congestion.
  - b. Parking.
  - c. Noise, smoke, dust, fumes, vapors, gases, heat, odor, glare or vibration.
  - d. Outdoor storage.
  - e. Sanitary sewage disposal.
3. A permit is obtained from the Township.

#### **2704. Enclosure**

Where a nonconforming use is conducted entirely on unenclosed premises, no structure to house or enclose such use, whether or not such structure would otherwise conform to zoning regulations, shall be permitted to be erected on the premises.

#### **2705. Abandonment**

If a nonconforming use of a building or land is abandoned for 12 consecutive months or more, whereby the Township can prove an intent to abandon and an overt act of abandonment, the subsequent use of such building or land shall conform with the regulations of the district in which it is located, unless another nonconforming use is approved by the Board. Such approved use shall be initiated within 120 days after the approval by the Board.

#### **2706. Displacement**

No nonconforming use shall displace a conforming use.

#### **2707. Nonconforming Lot**

A lot held in single and separate ownership on the effective date of this Ordinance which does not contain the required minimum area or width may be used for the construction, alteration or reconstruction of a building or may be otherwise used if the construction, alteration, reconstruction, or other use is in compliance with the use, yard, and setback provisions of this Ordinance.

#### **2708. Reconstruction**

A nonconforming structure, a conforming structure devoted to a nonconforming use, or a structure that has been legally condemned or destroyed by fire or other cause to less than 75 percent of its

value before the occurrence, may be restored to its former condition and footprint, provided that:

1. The reconstructed structure shall not exceed the height, area and volume of the building destroyed or condemned.
2. Reconstruction of the structure shall commence within 12 months from the date the structure was destroyed or condemned, unless the ZHB shall authorize a special exception for an extension of this time limit.

#### **2709. Repairs and Maintenance**

1. On any nonconforming structure or portion of a structure containing a nonconforming use, work may be done in any period of 6 consecutive months on ordinary repairs or on repair or replacement of non-bearing walls, fixtures, wiring or plumbing, provided that the cubic content existing when it became nonconforming shall not be increased.
2. If a nonconforming structure becomes physically unsafe due to lack of repairs or maintenance and is declared by the CEO to be unsafe by reason of physical condition, it shall not thereafter be restored or repaired except to conform or more closely conform to the regulations of the district in which it is located.
3. Nothing in this Ordinance shall be construed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by the CEO or other official charged with protecting the public safety.

#### **2710. Reduction of Lot Area**

No lot area shall be so reduced that the area of the lot or the dimensions of the open space shall be smaller than herein prescribed.

#### **2711. Nonconforming Signs**

Regulations for nonconforming signs are in Article 23 relating to Signs.

#### **2712. Registration of Nonconforming Uses**

Every three years, the CEO may prepare or cause to be prepared, a complete list of all nonconforming uses, structures, lots, and signs in the Township.

#### **2713. Ownership**

Whenever a lot is sold to a new owner, a previously lawful nonconforming use may be continued by the new owner.

#### **2714. Violations**

A nonconforming structure altered, or a nonconforming use created in violation of any previous provisions in this Article shall be regarded as continuing in such violation and shall not enjoy the privilege of legal continuance conferred by Section 2701 upon other nonconforming structures and uses.