

ARTICLE VIII

NONCONFORMING USES, STRUCTURES AND LOTS OF RECORD

A8 SECTION 1. INTENT

It is the intent of this Ordinance to recognize the right of nonconformities to continue, but to encourage that such lots, uses, and structures be brought into conformity with this Ordinance as soon as constitutionally permissible. To achieve this end, nonconformities are subject to the regulations set forth in this Article.

A8 SECTION 2. NONCONFORMING LOTS OF RECORD

A8 Section 2.1 In any district in which dwellings are permitted as primary uses, a single family detached dwelling and customary accessory uses may be erected on any single nonconforming lot of record at the effective date of adoption or amendment of this Ordinance, notwithstanding limitations imposed by other provisions of this Ordinance. Such nonconforming lot must be in separate ownership and not abut other lots under the same ownership. This provision shall apply even though such lot fails to meet the requirements for area and/or width that are applicable in the district, provided that all other yard dimensions and requirements of the lot shall conform to the regulations for single family detached dwellings in the Single Family Residential District. Variance of yard setback requirements may be obtained only through action of the Zoning Hearing Board.

A8 Section 2.2 Where two or more lots which are nonconforming by reason of insufficiency of area or width are located side by side and one or more of the owners thereof are unable to construct a one or two-car garage because of the side yard setback, the Zoning Officer is authorized to reduce the sideyard setback by up to one half to permit the construction of a one or two car garage. Such garage may be subsequently used only as a garage for vehicle storage and the accessory uses customarily incidental and secondary to a vehicle storage garage.

A8 Section 2.3 If two or more abutting lots or combinations of abutting lots and portions of lots under the same ownership are of record at the time of passage or amendment of this Ordinance, and if all or part of the lots do not meet the requirements established for either lot width or area, the lands involved shall be considered to be an undivided parcel for the purposes of this Ordinance, and no portion of said parcel shall be used or sold in a manner which diminishes compliance with either lot width or area requirements established by this Ordinance, nor shall any division of any parcel be made which creates a lot with either width or area below the requirements stated in this Ordinance.

A8 Section 2.3 Lots which fail to meet either minimum width or area requirements may be expanded to include abutting lots under the same ownership by the filing of a new approved plot plan showing the combination of the lots and new lot lines.

A8 SECTION 3. NONCONFORMING USES AND STRUCTURES

Where a lawful use of structure exists which, on the effective date of this Ordinance or subsequent amendment thereto, becomes nonconforming, such use or structure may be continued as long as it remains otherwise lawful, including subsequent sales of the property, subject to the following provisions.

A8 Section 3.1 The existing nonconforming use shall not be changed to a different nonconforming use.

A8 Section 3.2 No such nonconforming use or structure shall be altered or extended except if such complies with the following criteria and standards:

A8 Section 3.2.1 to provide for a natural expansion which is not detrimental to public health, safety, and general welfare, provided such expansion does not exceed 50% of the existing ground floor area of the structure or other space occupied by the use;

A8 Section 3.2.2 provided such does not constitute the addition of a new nonconforming use or structure;

A8 Section 3.2.3 provided such does not decrease yards when such already fail to meet minimum yard setback areas; and

A8 Section 3.2.4 provided that the alteration or extension meets the district regulations for such use or structure as if same were being altered or extended in the district where such use is permitted. In cases where the use is permitted in two or more districts, the most restrictive district regulations shall apply.

A8 Section 3.3 In the event that any unapproved nonconforming structure is destroyed or partially destroyed by any means to an extent of 75 percent or more of the replacement value less depreciation of such structure immediately preceding the casualty, such nonconforming structure and use thereof shall terminate and the lot shall thereafter be used only for conforming uses and structures.

A8 Section 3.4 When a nonconforming use or structure is discontinued or abandoned for a period of one year or more continuously, or replaced by a conforming structure, the premises shall not thereafter be used except in conformity with the regulations of the district in which it is located, except if the use is a farm use as herein defined.

A8 SECTION 4. REGISTRATION OF NONCONFORMING USES AND STRUCTURES

A8 Section 4.1 In order to administer this Article, the Zoning Officer shall maintain a register of legally nonconforming uses, structures and lots existing at the effective date of this Ordinance.

A8 Section 4.2 The purpose of maintaining a register of nonconforming uses, structures or lots is to provide an administrative means for a landowner to establish and preserve evidence of a nonconforming use, structure or lot.

A8 Section 4.3 An application for a Certificate of Nonconformity may be made to the Zoning Officer by a landowner. The application shall be made on forms

supplied by the municipality on which the landowner shall: 1) identify the nonconforming use, structure or lot; 2) state all information known to the landowner about the date when the nonconforming structure, use or lot come into existence; 3) state the period of uninterrupted existence or continuation of the nonconformity use, structure, or lot; 4) and state the names of all witnesses or list the evidence which may support the claim of existence and continuation of the nonconformity.

A8 Section 4.4 The Zoning Officer shall investigate the claim of nonconformity in order to determine whether or not it came into existence prior to the regulations of this or a prior zoning ordinance which made it nonconforming; whether or not the claimed use has been continuous; and to determine the extent of the nonconformity.

A8 Section 4.5 If the use, structure or lot is determined by the Zoning Officer to be a valid, pre-existing, continuous non-conforming use, structure or lot, the Zoning Officer shall issue a Certificate of Nonconformity. The said Certificate shall identify the nonconformity, state the dates of its inception and continuity and define the extent of the nonconformity in terms relevant to the use, structure or lot. Such Certificate shall be valid evidence of the non-conforming use, structure or lot as determined by the Zoning Officer.

A8 Section 4.6 If the Zoning Officer denies an application for a Certificate of Nonconformity, the Zoning Officer shall state the reasons for his denial and the results of his investigation upon which he bases the denial.

A8 Section 4.7 The Zoning Officer shall make the determination upon each application for a Certificate of Nonconformity within thirty (30) days of receiving a complete application for Certificate of Nonconformity together with the filing fee as established by the municipality for such applications. No application shall be considered complete until the fee for filing has been received.

A8 Section 4.8 The Zoning Officer shall maintain a record of all applications filed, determinations made, and Certificates issued or denied.

A8 Section 4.9 Any person aggrieved by the determination of the Zoning Officer in issuing or denying an application for a Certificate of Nonconformity may appeal the action within thirty (30) days of its issuance to the Zoning Hearing Board.

A8 SECTION 5. NEW CONSTRUCTION

To avoid undue hardship, nothing in this Ordinance shall be deemed to require a change in the plans, construction, or designated use of any structure on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this Ordinance and upon which actual building construction has been carried on diligently. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner. Where excavation or demolition or removal of an existing structure has been substantially begun preparatory to rebuilding, such excavation or demolition or removal shall be deemed to be actual construction, provided that work shall be carried on diligently.

ARTICLE IX

ADMINISTRATION AND ENFORCEMENT

A9 SECTION 1. GENERAL PROVISIONS

A9 Section 1.1 The municipal governing body shall appoint a Zoning Officer who shall meet the requirements of the Pennsylvania Municipalities Planning Code. The Zoning Officer shall administer and enforce this Ordinance in accordance with its literal terms, and shall not have the power to permit any construction or any use or change of use which does not conform to this Chapter. The duties of the Zoning Officer shall be as follows:

A9 Section 1.1.1 to examine, record, and file all applications for zoning permits, with any accompanying plans and documents, and to issue such permits only for lots, uses, and structures which are in conformity with the provisions of this Ordinance;

A9 Section 1.1.2 to receive applications for certificates of nonconforming uses, investigate, and issue or deny certificates of nonconforming uses;

A9 Section 1.1.3 to post a schedule of fees in his office;

A9 Section 1.1.4 to receive, investigate, and process all complaints and to notify persons of any violations of provisions of this ordinance;

A9 Section 1.1.5 to conduct inspections of property for which zoning permits have been issued to ascertain if the construction or use is in conformity with the provisions of the permit;

A9 Section 1.1.6 upon request of the governing body or the Planning Commission, to present to such body facts, records, and any similar information required to assist such body in its deliberations;

A9 Section 1.1.7 to be responsible for keeping current copies of this Ordinance and the Official Zoning Map for distribution to the public;

A9 Section 1.1.8 to present to the Zoning Hearing Board, in each case before the Zoning Hearing Board, all relevant facts and arguments to support the municipality's position, interpretation and procedures in the application of the provisions of the Zoning Ordinance;

A9 Section 1.1.9 to institute civil enforcement proceedings as a means of enforcement when acting within the scope of the Zoning Officer's employment;

A9 Section 1.1.10 to perform other duties in the administration and enforcement of this Chapter as may be directed or as required by this Ordinance or the Pennsylvania Municipalities Planning Code.

A9 SECTION 2. FEES

A9 Section 2.1 Fees. The governing body shall establish a schedule of fees and a collection procedure for all zoning matters provided for by this ordinance or the Pennsylvania Municipalities Planning Code. Said schedule of fees shall be established by Resolution of the governing body, and may be amended by Resolution from time to time.

A9 Section 2.2 The schedule of fees shall be posted in the office of the Zoning Officer.

A9 Section 2.3 All such fees shall be payable to the municipality.

A9 Section 2.4 No request for a zoning permit or any other application provided for in this Ordinance or the Pennsylvania Municipalities Planning Code shall be considered complete nor considered filed until all fees have been paid in full.

A9 Section 2.5 No application or appeal shall be considered filed until the appropriate filing fee shall have been paid in full.

A9 SECTION 3. ZONING PERMITS

A9 Section 3.1 A zoning permit shall be required prior to the erection, extension, or alteration of any structure or portion thereof, except those listed in Article II, Sections 6.6 and 6.7, and prior to the use or change in use of a structure or land. No such zoning permit shall be required for normal maintenance activities and minor repairs which do not constitute an erection, extension, or alteration as herein defined. No permit shall be granted by the Zoning Officer for any purpose except in compliance with the provisions of this Ordinance or, upon appeal, in compliance with a decision of the Zoning Hearing Board or the courts.

A9 Section 3.2 Application for Zoning Permits. To apply for a zoning permit, the applicant shall submit an "Application for a Zoning Permit" to the Zoning Officer along with all required fees. When required by this Ordinance, site plans and other information shall accompany the application.

A9 Section 3.3 Review of Application. All applications for zoning permits shall be granted or denied by the Zoning Officer within thirty (30) days from the date of receipt of the application and fees for such. The Zoning Officer shall notify the applicant in writing of all action taken on the application for a zoning permit within said thirty (30) day period. If the application is denied, such notification shall specify the provisions of this Ordinance with which such application does not comply. If, for any reason, the Zoning Officer fails to notify the applicant of all action taken in the manner and time limit set forth above, such application shall be considered approved as submitted.

A9 Section 3.4 Permit Expiration. A zoning permit shall be valid for a period of thirty-six (36) months from the day of issuance, or until a certificate of occupancy is issued, whichever is first. A permit may be extended by the Zoning Officer upon proper application and payment of fees for a period not to exceed eighteen (18) months.

A9 SECTION 4. SITE PLAN REVIEW

A9 Section 4.1 Site Plan. A site plan, as described below, shall accompany all "Applications for a Zoning Permit" whenever such applications propose the following: (1) a proposed use or structure located in or within one hundred (100) feet of a flood plain as stipulated in Article VII, Section 1; (2) a proposed use or structure on steep slopes as stipulated in Article VII, Section 2; (3) a proposed use required to have a parking lot as stipulated in Article VII, Section 8; (4) whenever development is proposed involving the location of two or more residential uses or structures on a single lot, or a single non-residential structure on a single lot, including, but not limited to, apartment complexes, shopping centers, and industrial parks; and (5) any proposed use or structure located in any Commercial or Industrial District except for single family and two family detached or single family semi-detached dwellings. A site plan is not required for those circumstances cited above when a similar plan is required for a mobile home park permit or approval of a planned residential development as defined and regulated by their respective ordinances of the Township.

A9 Section 4.2 Submission and Content of the Site Plan. Three (3) copies of the site plan shall be submitted to the Zoning Officer along with the "Application for a Zoning Permit". The site plan shall be drawn to a scale of 1" equals 50' or larger and contain the following written and graphic information unless an item is waived by the Zoning Officer because such is unnecessary to determine conformance with this Ordinance.

A9 Section 4.2.1 the name of the proposed development and the name and address of the owner of the property and the individual or firm preparing the site plan;

A9 Section 4.2.2 date of the "Application for a Zoning Permit";

A9 Section 4.2.3 graphic scale;

A9 Section 4.2.4 north point;

A9 Section 4.2.5 key map at a scale of 1" equals 400' showing streets and roads, buildings, and motor vehicle access within 500 feet from the exterior boundary of the lot;

A9 Section 4.2.6 total size of the property, and each lot and/or area to be leased;

A9 Section 4.2.7 the proposed use of the property;

A9 Section 4.2.8 topographic contour lines drawn at vertical intervals of five feet, including elevation of each ten foot interval, both before and after the proposed construction;

A9 Section 4.2.9 the total tract boundary with distances marked to at least the nearest foot;

A9 Section 4.2.10 location of the front, side, and rear yard setback area as required by the applicable zoning district;

A9 Section 4.2.11 all existing and proposed structures, showing location and a statement of the ground floor area, any retail and service floor area, height and elevation of each;

A9 Section 4.2.12 all streams, springs, sink holes, flood plain boundaries, and slopes of twenty-five (25) percent or more;

A9 Section 4.2.13 all existing and proposed street rights-of-way and cartways, including those abutting the property;

A9 Section 4.2.14 all existing and proposed points of motor vehicle access to the property;

A9 Section 4.2.15 all existing and proposed parking and loading spaces, parking lots, and a statement of the surfacing material to be used;

A9 Section 4.2.16 the location of all outdoor lighting fixtures;

A9 Section 4.2.17 the location and common name of existing and proposed vegetation to be used for landscaping;

A9 Section 4.2.18 the location of all buffer yards required by this Ordinance; and

A9 Section 4.2.19 a space labeled "Approved by" for the signature of the Zoning Officer, and a space for the date of such approval.

A9 Section 4.3 Review Procedure. All applications for a zoning permit which include a site plan as herein required shall be reviewed in the same manner as stipulated in subsection 2.2 above, except that (1) upon receipt of the application, the Zoning Officer shall forward one copy of the site plan to the staff of the Centre County Planning Commission for verification of compliance with the applicable subdivision and land development ordinances; and (2) upon approval of the application, the Zoning Officer shall sign two copies of the site plan, return one copy to the applicant along with the requested zoning permit and retain the other copy for his files.

A9 SECTION 5. CERTIFICATE OF OCCUPANCY

Upon completion of the erection, extension, or alteration of a structure , or upon fulfilling the requirements of a change in use for which a zoning permit was issued, the applicant shall apply for a certificate of occupancy. The structure or the use for which the zoning permit was issued may not be occupied or otherwise used until a certificate of occupancy has been issued by the Zoning Officer.

A9 Section 5.1 Within fifteen (15) days of an application for a certificate of occupancy, the Zoning Officer or his designated agent shall inspect the premises and determine if the action taken complies with the regulations of this Ordinance. If it does, a certificate of occupancy shall be issued within the fifteen (15) day time limitation.

A9 Section 5.2 If the action fails to comply with the regulations of this Ordinance, the Zoning Officer shall notify the applicant, in writing, of the denial of a certificate of occupancy and shall state the provisions of this Ordinance with which the action does not comply. The applicant may correct the defects cited in the denial of the Zoning Officer for a certificate of occupancy. If, upon notification by the applicant and inspection of the premises, the Zoning Officer finds that the defects have been corrected and that no additional defects have been created, a certificate of occupancy shall be issued within two working days.

A9 Section 5.3 Failure of the Zoning Officer to properly grant or deny an occupancy permit in the manner and time period stipulated above shall constitute an approval of the application for a certificate of occupancy, and the premises may be occupied or otherwise used as stipulated in the zoning permit.

A9 Section 5.4 Temporary Certificate of Occupancy. A temporary certificate of occupancy may be issued in the manner prescribed above, pending (1) the completion of a structure or the fulfillment of requirements for a change in use to allow for partial occupancy and (2) the posting of a bond or certified check in an amount equal to the Zoning Officer's estimate of work remaining to be completed for a permanent certificate. The certificate shall be valid only until such time as the action for which the zoning permit was issued is complete, or for a period of six (6) months after issuance, whichever is less.

A9 Section 5.5 Upon expiration of the temporary certificate of occupancy, the applicant shall apply for a permanent certificate of occupancy or, if the action remains incomplete, may apply for one additional temporary certificate of occupancy. If the action remains incomplete after all additional temporary certificates have expired, the Zoning Officer shall use the proceeds of the bond or certified check to complete the necessary work. Any costs incurred by the municipality over and above the amount of the bond or certified check shall be paid by the zoning permit holder prior to occupying the structure or otherwise using the land.

A9 SECTION 6. VIOLATIONS AND PENALTIES

Failure to comply with any provisions of this Ordinance shall be a violation of this Ordinance.

A9 Section 6.1 Complaints Regarding Violations. Whenever a violation of this Ordinance occurs, or is alleged to have occurred, any person may file a complaint to the Zoning Officer stating fully the causes and basis thereof. The Zoning Officer shall record such complaint, investigate, and take action thereon as provided by this Ordinance.

A9 Section 6.2 Notice of Violation. If the Zoning Officer shall find that any provision of this Ordinance has been violated, he shall initiate enforcement proceedings by sending an enforcement notice as provided for by Section 616.1 of the Pennsylvania Municipalities Planning Code, 53 P.S. Section 10616.1.

A9 Section 6.3 Penalties. Penalties and remedies for violations of this Ordinance are stipulated in Section 617 and 617.2 of Article VI of the Pennsylvania Municipalities Planning Code, as amended, 53 P.S. Section 10617 and 10617.2.

A9 SECTION 7. APPEALS

Any appeal from a decision or action of the governing body or of any officer or agency of the municipality in matters pertaining to this Ordinance shall be made in accordance with the Pennsylvania Municipalities Planning Code, as amended.

A9 SECTION 8. AMENDMENTS

The regulations, restrictions, and district boundaries set forth in this Ordinance may, from time to time, be amended through action of the governing body in the manner provided by the Pennsylvania Municipalities Planning Code.

ARTICLE X

ZONING HEARING BOARD

A10 SECTION 1. ESTABLISHMENT OF ZONING HEARING BOARD

There is hereby created a three-member Zoning Hearing Board, whose membership, organization, and procedures, shall be those as set forth in Article IX of the Pennsylvania Municipalities Planning Code, as amended.

A10 SECTION 2. ALTERNATE MEMBERS

The governing body may appoint up to three alternate members of the Zoning Hearing Board who shall serve pursuant to Article IX of the Pennsylvania Municipalities Planning Code.

A10 SECTION 3. HEARINGS

The Board shall conduct hearings and make decisions in accordance with the procedures provided in Article IX of the Pennsylvania Municipalities Planning Code.

A10 SECTION 4. POWER AND FUNCTIONS

The Board shall have such powers and perform such functions as are authorized by Article IX of the Pennsylvania Municipalities Planning Code.

A10 SECTION 5. ZONING APPEALS TO COURT

Appeals to court shall be governed by Article X of the Pennsylvania Municipalities Planning Code.

ARTICLE XI

DEFINITIONS

A11 SECTION 1. LANGUAGE INTERPRETATIONS

For the purpose of this Ordinance, certain terms and words used herein shall be interpreted as follows:

A11 Section 1.1 Words used in the present tense include the future tense; the singular number includes the plural, and the plural number includes the singular; words of masculine gender include feminine gender, and words of feminine gender include masculine gender.

A11 Section 1.2 The word "includes" or "including" shall not limit the term to the specific example, but is intended to extend its meaning to all other instances of like kind and character.

A11 Section 1.3 The word "person" includes an individual, firm, association, organization, partnership, trust, company, corporation, or any other similar entity.

A11 Section 1.4 The words "shall" and "must" are mandatory; the words "may" and "should" are permissive.

A11 Section 1.5 The words "used" or "occupied" include the words "intended, designed, maintained, or arranged to be used or occupied".

A11 Section 1.6 The word "municipal" shall mean Township.

A11 Section 1.7 The word "municipality" shall mean Township of Marion.

A11 Section 1.8 The term "county" shall mean the County of Centre.

A11 SECTION 2. DEFINITIONS

A11 Section 2.1 Unless a contrary intention clearly appears, the following words and phrases shall have the meaning given in this section. All words and terms not defined herein shall be used with a meaning of standard usage.

A11 Section 2.1.1 ACCESSORY STRUCTURE, BUILDING: a separate structure or building used to house or provide for an accessory use. See "Use".

A11 Section 2.1.2 ADDITION: see "Extension".

A11 Section 2.1.3 ADULT BUSINESSES AND ENTERTAINMENTS: See Section 12 of Article VII.

A11 Section 2.1.4 AIRPORTS AND LANDING STRIPS: all facilities for the storage, maintenance, take-off, and landing of motorized aircraft.

A11 Section 2.1.5 AISLE: a corridor used for access within a parking lot by motor vehicles to the parking space.

A11 Section 2.1.6 ALLEY: see "Street".

A11 Section 2.1.7 ALTERATION: as applied to a structure, a change or rearrangement in the structural parts, including supporting members such as bearing walls, columns, beams, or girders, or an enlargement, whether by extending on a side or by increasing in height, or the relocation of a structure onto or within a lot.

A11 Section 2.1.8 AMENDMENT: any change or revision of the text of this Ordinance or the Official Zoning Map.

A11 Section 2.1.9 ANIMAL HOSPITAL: a building used by a veterinarian for the treatment, housing, or boarding of small domestic animals such as dogs, cats, rabbits, birds and fowl.

A11 Section 2.1.10 APARTMENT COMPLEX: a group of two or more buildings occupying a lot in single ownership, with each building used by three or more families.

A11 Section 2.1.11 APPLICANT: This term is defined in Section 105 of the Pennsylvania Municipalities Planning Code, 53 P.S. Section 10105.

A11 Section 2.1.12 APPLICATION FOR DEVELOPMENT: This term is defined in Section 105 of the Pennsylvania Municipalities Planning Code.

A11 Section 2.1.13 APPOINTING AUTHORITY: This term is defined in Section 105 of the Pennsylvania Municipalities Planning Code.

A11 Section 2.1.14 AUTHORITY: This term is defined in Section 105 of the Pennsylvania Municipalities Planning Code.

A11 Section 2.1.15 AUTOMOVILE SERVICE STATION: The use of land and structures engaged in the retail sale of gasoline, oil, grease, batteries, tires, and other motor vehicle accessories, which may also provide minor mechanical repairs and servicing of motorized vehicles.

A11 Section 2.1.16 AUTO WRECKING, JUNK, AND SCRAP ESTABLISHMENTS: The use of land and structures for the storage, baling, packing, sorting, handling, disassembling, purchase, or sale of any material which has been used, salvaged, scrapped, or reclaimed, but is capable of being reused in some form, including metals, fiber, paper, cloth and rags, rubber, rope, bottles, machinery, tools, appliances, fixtures, utensils, lumber, boxes, crates, pipe and pipe fittings, tires, motor vehicles which do not have a current and valid inspection sticker as required by the Commonwealth of Pennsylvania, and motor vehicle parts, but not including garbage or other organic wastes.

A11 Section 2.1.17 BLOCK FACE: The area which encompasses the houses on both side of the street, bordered at either or both sides by the nearest cross street.

A11 Section 2.1.18 **BOUNDARY:** A line marking the limit, or border, of a lot or district.

A11 Section 2.1.19 **BUILDING:** A structure, including any part thereof, having a roof and used for the shelter or enclosure of persons or property.

A11 Section 2.1.20 **BUILDING SETBACK LINE:** The line within a lot defining the required minimum setback distance between any structure and the adjacent street line.

A11 Section 2.1.21 **CAMPS AND CAMPING GROUNDS:** The use of land and structures by campers for seasonal, recreational, and temporary living purposes in cabins, tents, or outdoor recreational vehicles.

A11 Section 2.1.22 **CARTWAY:** The portion of a street right-of-way designed or intended for vehicular use.

A11 Section 2.1.23 **CENTER LINE:** A line running parallel to and equidistant from both sides of a street.

A11 Section 2.1.24 **CHILD DAY CARE CENTER:** The use of land and structures for supervised day care of six or more children.

A11 Section 2.1.25 **CHURCHES AND OTHER PLACES OF WORSHIP:** The use of land and structures for religious worship, education, and related activities; includes chapels, cathedrals, temples, synagogues, and the like.

A11 Section 2.1.26 **CLUBS, LODGES AND FRATERNAL ORGANIZATIONS:** The use of land and structures by a non-profit group which is not operated for the purpose of trade or business, no part of the earnings of which benefit any individual but which is operated for social and community service activities among group members and their guests.

A11 Section 2.1.27 **COMMERCIAL DAIRY:** The use of land and structures for the manufacture and processing of dairy products.

A11 Section 2.1.28 **COMMON OPEN SPACE:** This term is defined in Section 105 of this Pennsylvania Municipalities Planning Code.

A11 Section 2.1.29 **COMMUNITY CENTER:** The use of land or structures for social and community service activities which are charitable, educational or religious in nature and are for public rather than for private gain, including recreational programs, counseling services, and human service agencies and programs.

A11 Section 2.1.30 **CONDITIONAL USE:** This term is defined in Section 105 of the Pennsylvania Municipalities Planning Code.

A11 Section 2.1.31 CONSTRUCTION: The construction, reconstruction, renovation, repair, extension, expansion, alteration, or relocation of a building or structure, including the placement of manufactured homes.

A11 Section 2.1.32 CONVENIENCE FOOD STORE: Small stores permitted in selected rural and residential districts which retail food and beverages primarily to the immediately surrounding population.

A11 Section 2.1.33 COUNTY: This term is defined in Section 105 of the Pennsylvania Municipalities Planning Code.

A11 Section 2.1.34 CURB RETURN: A curved curb connecting the tangents of two intersecting curbs of streets or driveways.

A11 Section 2.1.35 DEVELOPER: This term is defined in Section 105 of the Pennsylvania Municipalities Planning Code.

A11 Section 2.1.36 DEVELOPMENT: Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, the placement of manufactured homes, streets, and other paving, utilities, filling, grading, excavation, mining, dredging, or drilling operations.

A11 Section 2.1.37 DEVELOPMENT PLAN: This term is defined in Section 105 of the Pennsylvania Municipalities Planning Code.

A11 Section 2.1.38 DIRECT RAYS: When used in regard to illumination, that form of lighting wherein the source is visible and the light is distributed directly from it to the object being illuminated.

A11 Section 2.1.39 DISTRICT: All land and watercourses located within designated boundaries on the Official Zoning Map; a zoning district.

A11 Section 2.1.40 DRIVE-IN COMMERCIAL USE: The use of land and structures in which goods or services are dispensed directly to the patron while in a motor vehicle by any means which eliminates the necessity for the patron to exit the motor vehicle.

A11 Section 2.1.41 DRIVEWAY: A corridor which provides motor vehicle access from a street into or across a lot.

A11 Section 2.1.42 DWELLING: A building designed for human living quarters.

A11 Section 2.1.42.1 DWELLING UNIT: A dwelling occupied or designed to be occupied by one family.

A11 Section 2.1.42.2 SINGLE FAMILY DWELLING: A single dwelling unit occupying the building from ground to roof.

A11 Section 2.1.42.3 TWO FAMILY DWELLING: Two dwelling units, one above the other.

A11 Section 2.1.42.4 MULTI-FAMILY DWELLING: Three or more dwelling units, with the units stacked one above the other.

A11 Section 2.1.42.5 DETACHED: Each dwelling unit has open space on all sides.

A11 Section 2.1.42.6 SEMI-DETACHED: One side of each dwelling unit is a party wall in common with an adjoining dwelling unit.

A11 Section 2.1.42.7 ATTACHED: Both side walls of all except the dwelling units at the ends of the building are party walls.

A11 Section 2.1.43 ERECTION: Construction or assembly

A11 Section 2.1.44 EROSION: The removal of soil, stone, and other surface materials by the action of natural elements.

A11 Section 2.1.45 ESSENTIAL SERVICES: Facilities for the distribution of utility services, including gas, electric, steam, water, sewerage, telephone, and similar services.

A11 Section 2.1.46 EXTENSION: (1) An addition to the floor area of an existing structure; (2) An increase in the size of a structure; (3) an increase in that portion of a lot occupied by an existing use; 4) an enlargement of a use or structure.

A11 Section 2.1.47 FACING WALLS: (1) Walls of a structure opposite to and parallel with one another, or (2) Wall lines, or wall lines extended of opposite walls intersecting at angles of less than sixty-five (65) degrees.

A11 Section 2.1.48 FAMILY: (1) A person, or (2) Two or more persons, all of whom are related by blood, marriage, parentage, or adoption (including foster children) living together as a single housekeeping unit. In addition to the family, two or fewer unrelated persons may reside within the housekeeping unit in the dwelling unit. Except that in the case where one or more of the unrelated persons is a family care client, the number of unrelated persons permitted to be with the housekeeping unit shall be three or fewer. Domestic servants employed on the premises and temporary gratuitous guests may be housed on the premises without being counted as part of the family.

A11 Section 2.1.49 FAMILY CARE: The provision of care in accord with regulations of the appropriate State agency(ies) for up to three (3) mentally ill, retarded or disabled children or adults or elderly persons in a dwelling unit by a provider who resides in that unit.

A11 Section 2.1.50 FARM USE: The use of land and structures for one or more of the following: the tilling of the land, the raising of crops, fruits, and vegetables, and the raising and keeping of animals and plants; horticultural uses related to the raising, propagating, and selling of trees, shrubs, flowers, and other plant materials; forestry uses related to the harvesting of lumber products.

A11 Section 2.1.51 FAST FOOD RESTAURANT: Any establishment whose principal business is the sale of food or beverages with rapid turnover to customers in a ready-to-consume state for consumption either within the building or for carry out off the premises, and whose design or principal method of operation includes the following: foods and beverages are usually served in disposable or edible containers; it is self-service, with customers expected to clean up after themselves; and menus are posted.

A11 Section 2.1.52 FINISHED LIVING AREA: All habitable interior space, excluding unheated porches, carports and garages.

A11 Section 2.1.53 FLOOD PLAIN: The limits of the Flood Plain Conservation regulations are hereby determined to be areas subject to periodic inundation by flood waters or runoff as delineated on the current Flood Insurance Rate Map (FIRM) for the municipality, as prepared by the Federal Emergency Management Agency.

A11 Section 2.1.54 FLOOD PLAIN AREA: A relatively flat or low land area which is subject to partial or complete inundation from an adjoining or nearby stream, river or watercourse; and/or any area subject to the unusual and rapid accumulation of surface waters from any source.

A11 Section 2.1.55 FLOOD WATERS: Waters which escape from streams or other bodies of water and overflow adjacent lands, as distinct from runoff.

A11 Section 2.1.56 FLOOR AREA: The sum of the gross usable area of all floors of a building measured from the face of the exterior walls. Retail and service floor area is that portion of the total floor area relegated to use by the customer and employees to consummate retail sales and services including display areas for goods but not including office space or storage areas.

A11 Section 2.1.57 FRONTAGE: The portion of a lot boundary abutting a street.

A11 Section 2.1.58 GOVERNING BODY: This term is defined in Section 105 of the Pennsylvania Municipalities Planning Code.

A11 Section 2.1.59 GRADING: The act of excavating and/or filling land for the purpose of changing natural slope.

A11 Section 2.1.60 GROUP HOME: A dwelling unit in which care and residence are provided in accord with regulations of the appropriate State agency(ies) for more than three (3), and not more than eight (8) non-adjudicated clients who are dependent children or elderly, mentally ill, retarded, or disabled adults.

A11 Section 2.1.61 HALFWAY HOUSE/REHABILITATION CENTER: A residence or community center in which social and community service activities in accord with regulations of the appropriate State agency(ies) are provided for no more than eight (8) resident and an unlimited number of nonresident alcoholics, drug addicts, emotionally disturbed adults, former convicts, or other adjudicated individuals.

A11 Section 2.1.62 HEIGHT: The vertical distance of a structure measured from the mean level of the ground surrounding the structure to its highest point, regardless of roof design.

A11 Section 2.1.63 HISTORICAL MUSEUM: The use of land and structures which are open to the general public and such land, structures, and preserved and exhibited objects are of educational and historical significance. Historical museums shall be permitted, but are not limited to, the following functions: the exhibiting, preserving, recording; or storing of objects of educational and historical significance; educational events; arts and crafts demonstrations; art performances; and fund raising events to benefit the museums.

HOME AGRICULTURE: The activity of producing principally for home use or consumption, plants, animals or their products by man, including in a primary sense the growing, harvesting, storage and preparation for use.

A11 Section 2.1.64 HOME OCCUPATION: An accessory use of a dwelling which is customarily conducted in a dwelling and is incidental to and subordinate to the use of the premises as a dwelling. A home occupation may be the practice of a profession, a craft or an activity conducted by a resident or residents of the dwelling which, while it may be for gainful employment, does not change the character of the residence as a dwelling nor the character of the residential district in which it is located.

A11 Section 2.1.65 HOSPITAL: A business or nonprofit establishment for the diagnosis, treatment and other care of the general public through an organized medical staff which is primarily engaged in providing in-patient care. The establishment shall be licensed by the Pennsylvania Department of Health and have as its mission the provision of acute care medical and nursing services to injured, disabled, pregnant, diseased, sick or mentally ill persons, and/or the provision of rehabilitation services for such persons and to provide further services which promote good health and well-being of people.

A11 Section 2.1.66 HUNTING AND FISHING CABIN: A building used for seasonal and temporary living purposes by persons engaged in hunting, fishing, and similar recreational purposes. Also called a "seasonal cottage" or "seasonal dwelling" or "summer cottage".

A11 Section 2.1.67 INDUSTRIAL PARK: An area planned for the integrated design of two or more primary industrial uses and structures on a lot held in single ownership.

A11 Section 2.1.68 LAND DEVELOPMENT: This term is defined in Section 105 of the Pennsylvania Municipalities Planning Code.

A11 Section 2.1.69 LANDOWNER: This term is defined in Section 105 of the Pennsylvania Municipalities Planning Code.

A11 Section 2.1.70 LIVING SPACE: The portion of the floor area of a dwelling relegated to use for residential purposes but excluding crawl spaces, garages, carports, breezeways, attics or portions thereof with clear ceiling heights of less than five (5) feet, open porches, balconies, terraces and accessory structures.

A11 Section 2.1.71 LOT: This term is defined in Section 105 of the Pennsylvania Municipalities Planning Code.

A11 Section 2.1.71.1 CORNER LOT: A lot at the junction of and abutting on two or more intersecting streets or at the point of abrupt change of a single street where the interior angle is less than 135 degrees and the radius of the street is less than one hundred (100) feet.

A11 Section 2.1.71.2 INTERIOR LOT: A lot with only one frontage on a street.

A11 Section 2.1.71.3 THROUGH LOT: A lot with front and rear street frontage.

A11 Section 2.1.71.4 LOT LINE: A boundary line of a lot; includes property line.

A11 Section 2.1.71.5 FRONT LOT LINE: The line separating the lot from the street right-of-way.

A11 Section 2.1.71.6 SIDE LOT LINE: Any lines which are not front or rear lot lines.

A11 Section 2.1.71.7 REAR LOT LINE: Any line parallel to or within 45 degrees of being parallel to a street line which defines the rear of the lot.

A11 Section 2.1.71.8 LOT SIZE: The area contained within the boundary lines of a lot.

A11 Section 2.1.71.9 LOT WIDTH: The horizontal distance between side lot lines.

A11 Section 2.1.71.10 **MAXIMUM LOT COVERAGE:** The percentage of lot area which may be occupied by the ground floor area of all primary and accessory buildings.

A11 Section 2.1.72 **MANUFACTURED HOME:** A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term includes park trailers, travel trailers, recreational, and other similar vehicles placed on a site for more than 180 consecutive days.

A11 Section 2.1.73 **MANUFACTURED HOME PARK:** A parcel (or contiguous parcels) of land which has been planned and improved for the placement of two or more manufactured homes.

A11 Section 2.1.74 **MINING AND QUARRYING:** The use of land for the purpose of extracting rocks and minerals for sale, exclusive of grading a lot preparatory to the construction of a structure for which a zoning permit has been issued.

A11 Section 2.1.75 **MEDIATION:** This term is defined in Section 105 of the Pennsylvania Municipalities Planning Code.

A11 Section 2.1.76 **MOBILE HOME:** This term is defined in Section 105 of the Pennsylvania Municipalities Planning Code.

A11 Section 2.1.77 **MOBILE HOME LOT:** This term is defined in Section 105 of the Pennsylvania Municipalities Planning Code.

A11 Section 2.1.78 **MOBILE HOME PARK:** This term is defined in Section 105 of the Pennsylvania Municipalities Planning Code.

A11 Section 2.1.79 **MUNICIPAL AUTHORITY:** This term is defined in Section 105 of the Pennsylvania Municipalities Planning Code.

A11 Section 2.1.78 **MUNICIPALITY:** This term is defined in Section 105 of the Pennsylvania Municipalities Planning Code. As used in this Ordinance it means the municipality.

A11 Section 2.1.79 **NONCONFORMING LOT:** This term is defined in Section 105 of the Pennsylvania Municipalities Planning Code.

A11 Section 2.1.80 **NONCONFORMING STRUCTURE:** This term is defined in Section 105 of the Pennsylvania Municipalities Planning Code.

A11 Section 2.1.81 **NONCONFORMING USE:** This term is defined in Section 105 of the Pennsylvania Municipalities Planning Code.

A11 Section 2.1.82 **NURSING HOMES AND OTHER CONVALESCENT HOMES:** A building with sleeping rooms where persons are housed or lodged and furnished with meals, nursing care for hire, and which is approved for such by the Pennsylvania Department of Public Welfare.

A11 Section 2.1.83 OFFICIAL MAP: This term is defined in Section 105 of the Pennsylvania Municipalities Planning Code.

A11 Section 2.1.84 OFFICIAL ZONING MAP: The map setting forth the boundaries of the zoning districts of this Chapter and adopted by the governing body of the municipality.

A11 Section 2.1.85 OFF-SITE SEWER SERVICE: A sanitary sewage collection system in which sewage is carried from individual lots by a system of pipes to a central treatment and disposal plant.

A11 Section 2.1.86 OFF-STREETS LOADING SPACE: A space not located within any street right-of-way used by motor vehicles for the temporary storage of trucks and other commercial vehicles while loading and unloading merchandise or materials.

A11 Section 2.1.87 OFF-STREET PARKING SPACE: A space not located within any street right-of-way used by motor vehicles for the temporary storage of one motor vehicle.

A11 Section 2.1.88 ON-SITE SEWER SERVICE: A sanitary sewage disposal system in which sewage is treated and discharged on the same lot at the use which it serves.

A11 Section 2.1.89 ONE HUNDRED YEAR FLOOD: A flood that, on the average, is likely to occur once every one hundred (100) years, (i.e., that has a one (1) percent chance of occurring each year, although the flood may occur in any year.

A11 Section 2.1.90 PARKING BAY: A row of parking spaces abutting one another along the length of each space.

A11 Section 2.1.91 PARKING LOT: A facility providing off-street parking space for five (5) or more motor vehicles.

A11 Section 2.1.92 PENNSYLVANIA MUNICIPALITIES PLANNING CODE: Act of 1968, July 31, P.L. 805, as amended, and reenacted, Act of 1988, December 21, P.L. 1329 (53 P.S. 10101 et seq.).

A11 Section 2.1.93 PLANNING COMMISSION: The planning commission established for this municipality pursuant to Article II of the Pennsylvania Municipalities Planning Code.

A11 Section 2.1.94 PLANNED RESIDENTIAL DEVELOPMENT: This term is defined in Section 105 of the Pennsylvania Municipalities Planning Code.

A11 Section 2.1.95 PLANNING AGENCY: This term is defined in Section 105 of the Pennsylvania Municipalities Planning Code.

A11 Section 2.1.96 PREMISES: Any lot and any structure constructed thereon.

A11 Section 2.1.97 PRIVATE: Not publicly owned, operated, or controlled.

A11 Section 2.1.98 PUBLIC: Owned, operated, or controlled by a governmental unit or a governmental agency.

A11 Section 2.1.99 PUBLIC HEARING: This term is defined in Section 105 of the Pennsylvania Municipalities Planning Code.

A11 Section 2.1.100 PUBLIC NOTICE: This term is defined in Section 105 of the Pennsylvania Municipalities Planning Code.

A11 Section 2.1.101 PUBLIC UTILITY FACILITY: For the purpose of this Chapter, electric substations, automatic telephone exchanges, micro-relay stations, and the like (but excluding public sewer and water facilities and radio and television transmitters and towers) and any other public utility corporation when exempted from the provisions of this Chapter by state law.

A11 Section 2.1.102 RACE TRACK: A commercial establishment for the racing of animals or motor vehicles.

A11 Section 2.1.103 RENEWABLE ENERGY SOURCE: This term is defined in Section 105 of the Pennsylvania Municipalities Planning Code.

A11 Section 2.1.104 RIDING STABLE AND ACADEMY: An establishment where horses are kept for riding or driving or are stabled for compensation as part of a club, association, ranch, or similar establishment.

A11 Section 2.1.105 RIGHT-OF-WAY: A corridor of land set aside for use, in whole or in part, by a street.

A11 Section 2.1.106 RUNOFF: The surface water discharge or rate of discharge of a given watershed after a fall of rain, snow, or other form of precipitation that does not enter the soil but runs off the surface of the land.

A11 Section 2.1.107 SCHOOL: Any place offering instruction in any branch of knowledge under the supervision of the Commonwealth of Pennsylvania or lawfully constituted ecclesiastical governing body, person, partnership, or corporation meeting the requirements of the Commonwealth of Pennsylvania.

A11 Section 2.1.108 SEASONAL COTTAGE/DWELLING: A single family detached dwelling used for seasonal and temporary living purposes during any season by persons engaged in recreational pursuits. Also called a "summer cottage" or "hunting and fishing cabin".

A11 Section 2.1.109 SEDIMENTATION: The process by which mineral or organic matter is accumulated or deposited by the movement of wind and water, or by gravity.

A11 Section 2.1.110 SHOPPING CENTER: A group of two or more primary uses or structures used for retail sales and service occupying a lot in single ownership.

A11 Section 2.1.111 SPECIAL EXCEPTION: This term is defined in Section 105 of the Pennsylvania Municipalities Planning Code.

A11 Section 2.1.112 STEEP SLOPE: Land whose slope (surfaces at an angle to the plane of the horizon) is twenty-five percent or more (a vertical difference of twenty-five feet or more per one hundred feet of horizontal difference).

A11 Section 2.1.113 STREET: The term "street" is defined in Section 105 of the Pennsylvania Municipalities Planning Code, 53 P.S. Section 10105. The following terms used therein are further defined for the purpose of this Ordinance as follows:

A11 Section 2.1.113.1 ALLEY: A street, usually located to the rear or side of properties otherwise abutting a street, used primarily for vehicular service access.

A11 Section 2.1.113.2 ARTERIAL STREET: A major street with fast or heavy traffic of considerable continuity used primarily as a traffic artery connecting two or more neighborhoods or areas. For the purposes of this Ordinance, existing arterial streets include the following:

A11 Section 2.1.113.3 COLLECTOR STREET: A major street which carries traffic from local streets to arterial streets. For the purposes of this Ordinance, existing collector streets include the following:

A11 Section 2.1.113.4 LOCAL STREET: Any street which is not defined herein as either an arterial or collector street.

A11 Section 2.1.113.5 STREET LINE: The dividing line between a street and the lot; includes right-of-way line and front lot line.

A11 Section 2.1.114 STRUCTURE: This term is defined in Section 105 of the Pennsylvania Municipalities Planning Code.

A11 Section 2.1.115 SUBDIVISION: This term is defined in Section 105 of the Pennsylvania Municipalities Planning Code.

A11 Section 2.1.116 SUBSTANTIAL IMPROVEMENT: Any modification, alteration, reconstruction or improvement of any kind to an existing structure, to an extent or amount of fifty (50) percent or more of its market value either (a) before the improvement, modification, or repair is started, or (b) if the structure has been damaged and is being restored, before the damage occurred.

A11 Section 2.1.117 SUBSTANTIALLY COMPLETED: This term is defined in Section 105 of the Pennsylvania Municipalities Planning Code.

A11 Section 2.1.118 SUMMER COTTAGE: A single family detached dwelling used for seasonal and temporary living purposes during any season by persons engaged in recreational pursuits. Also known as a "seasonal cottage", "seasonal dwelling", or "hunting and fishing cabin".

A11 Section 2.1.119 SUMMER SPORTS AREA: An establishment or facility providing outdoor recreation during the summer or warm weather period of the year, such as golf course; golf ball driving ranges; batting cages; baseball, football, soccer and other sports playing fields.

A11 Section 2.1.120 TEMPORARY USE: A use permitted for a fixed period of time with the obligation and intent to discontinue the use at the end of such time. Such uses do not involve the construction or alteration of any permanent structure.

A11 Section 2.1.121 THEATER FOR THE PERFORMING ARTS: The use of land and structures which may contain an assembly hall and studios with or without stage, which may be equipped with curtains and permanent stage scenery, or with mechanical equipment adaptable, but not limited to, the showing of plays, operas, performances, spectacles and similar forms of live or audio visual entertainment, and for instruction in the performing arts.

A11 Section 2.1.122 TOURIST HOME: A single family dwelling in which overnight accommodations are provided as offered for transient guests for compensation and where the provider of accommodations resides in the dwelling. This definition also includes "Bed and Breakfast" establishments.

A11 Section 2.1.123 TRANSFERABLE DEVELOPMENT RIGHTS: This term is defined in Section 105 of the Pennsylvania Municipalities Planning Code.

A11 Section 2.1.124 USE: Any purpose for which a lot or structure may be designed, arranged, intended, maintained, or occupied, or any activity, occupation, business, or operation carried on in a structure on a lot.

A11 Section 2.1.124.1 PRIMARY USE: The principal use of a lot or structure.

A11 Section 2.1.124.2 ACCESSORY USE: The use of land which is (1) customarily incidental; and (2) inferior, secondary and subordinate, to the primary use, and located on the same lot with such unless specifically permitted elsewhere herein.

A11 Section 2.1.125 VARIANCE: This term is defined in Section 105 of the Pennsylvania Municipalities Planning Code.

A11 Section 2.1.126 VISITORS' CENTER: The use of the land and structure or part thereof, which is open to the general public and designed for the dissemination of information. Such information may include, but shall not be limited to, exhibits, maps, brochures, pamphlets, and similar items.

A11 Section 2.1.127 WINTER SPORTS AREA: An establishment or facility providing outdoor recreation during the winter, such as skiing, sledding, and skating.

A11 Section 2.1.128 YARD: An unoccupied space, open to the sky, extending from the lot line to a structure. The size of a required yard shall be measured as the shortest distance between the structure and lot line.

A11 Section 2.1.128.1 FRONT YARD: The yard extending the full length of the front lot line.

A11 Section 2.1.128.2 SIDE YARD: A yard extending along the side lot line from the required front yard to the required rear yard setback area.

A11 Section 2.1.128.3 REAR YARD: The yard extending the full length of the rear lot line.

A11 Section 2.1.128.4 BUFFER YARD: A yard covered with vegetation and designed to provide an area of separation between different districts or uses.

A11 Section 2.1.128.5 YARD SETBACK AREA: An area bounded by a lot line and a line drawn parallel to the lot line at a distance specified in the Ordinance for front, side, or rear yard setbacks.

ARTICLE XII

ENACTMENT

A12 SECTION 1. REPEALER

Ordinance No. 7, the existing zoning ordinance of the municipality, and all other existing ordinances or parts of ordinances which are contrary to the provisions of this Ordinance are hereby repealed to the extent necessary to give this Ordinance full force and effect.

A12 SECTION 2. EFFECTIVE DATE

This Ordinance shall become effective on the 16th day of November A.D. 1992.

BOARD OF SUPERVISORS OF MARION
TOWNSHIP

BY William E. O'Donnell
Chairman

Archie B. Getty Jr
Richard E. Letzler

ATTEST:

Ruth Ann Neigel
Secretary

ZONING ORDINANCE AMENDMENT

REPEALER - Ordinance No. 1992 - 22, The Zoning Ordinance of the Municipality Adopted on November 16, 1992, and all other existing ordinances or parts of ordinances which are contrary to the provisions of these amendments are hereby repealed to the extent necessary to give these ordinances full force and effect.

ENACTMENT - The following amendments to the Zoning Ordinance No. 22 of 1992 are adopted and effective on the 16th day of November, 1992:

23 - 1992, the criteria and standards for R-2, No. 10 be amended to include country clubs, commercial camps and commercial campgrounds.

24 - 1992, the west boundary of the industrial district shall be moved west so as to include the Poorman tract.

25 - 1992, the Village Commercial boundary shall be moved east to intersect with the I-2 Light Industrial boundaries.

ATTEST:

MARION TOWNSHIP BOARD OF SUPERVISORS

Richard Ann Weight
Secretary

William E. Donald
Richard E. Fetters
Archie B. Betty