

ZONING ORDINANCE

OF

BENEZETTE
TOWNSHIP

ELK COUNTY
PENNSYLVANIA

(July 7, 2023)

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ARTICLE 1

GENERAL PROVISIONS

SECTION 100: Enactment

The Board of Township Supervisors of Benazette Township hereby adopts and enacts the Regulations, Zoning Districts, Administrative Structures, and Administrative Procedures that constitute this Zoning Ordinance. From and after the approval of this Ordinance, the Districts specified herein shall be established, and the following Regulations shall be in full force and effect.

SECTION 103: Short Title

This Ordinance shall be known as the ‘Benazette Township Zoning Ordinance.’

SECTION 106: A reader’s guide to the Organization and Applicability of this Ordinance

This Ordinance regulates all land uses, lots and structures within Benazette Township except those that are the property of the Township itself. Every regulated land use, lot or structure must either conform to the rules of this Ordinance or be a nonconforming use, nonconforming lot, or nonconforming structure. A nonconformity is defined as a use, lot or structure that (1) was legally established before the effective date of this Ordinance’s enactment (see Section 118, ‘The Effective Date of this Ordinance’s Enactment’), and (2) does not conform to the substantive requirements of this Ordinance. Because nonconformities were legally established and because their owners could not have known what the regulations of the Ordinance were going to be in advance, the owners have a legal and ethical right to continue their nonconformities. However, all nonconformities, except nonconforming signs, are subject to the regulations of Section 154, ‘Nonconformities.’ Special regulations for nonconforming signs are given in Article 6, ‘Signs.’ All regulated land uses, lots and structures that are neither in conformance with the controls of this Ordinance nor nonconformities are illegal and subject to the enforcement procedures specified in Section 160, ‘Enforcement.’

Zoning ordinances are always complex due to the complex nature of modern communities. However, this Ordinance is organized to be as simple as possible and to minimize the amount of reading required to determine how a property or project is restricted.

All of the provisions in this ordinance that affect Benazette Township’s property owners on a daily basis and apply to all properties within the Township are included in Article 1, ‘General Provisions.’ The sections of the remainder of Article 1 explain what the general purposes of this Ordinance are, what it’s basic rules are, when zoning or occupancy permits are needed, how to get those permits, what extra regulations apply to nonconforming uses, what a variance is, how to get a variance, how the Ordinance will be enforced, how property owners may contest the zoning officer’s determinations and how property owners may dispute the validity of this Ordinance.

Anybody who has a question concerning how this Ordinance regulates a property should read Article 1.

However, many of the regulations in this Ordinance should not be applied to all areas of the Township due to the differing statuses and goals of these areas. So Article 2, 'Zoning District Provisions' divides the Township into different zoning districts, each of which is composed of areas with similar present day statuses and goals, and faces a set of regulations that is different than the set faced by every other zoning district. Article 2 then provides this set of regulations for each district, addressing such subjects as permitted land uses, setbacks, building heights, lot designs, and more. Although Section 200, 'The Purposes, Organization and Applicability of Article 2' explains how this article should be read in more detail, a general rule of thumb is that readers who have a questions concerning how this ordinance regulates a property need to read only the parts of Article 2 that concern the zoning district of that property.

Article 3, 'Special Exceptions and Conditional Uses,' explains what a special exception use is, reveals what a conditional use is, illustrates the procedures for obtaining permits for these uses, lists the standards that the Zoning Hearing Board is to utilize in determining whether or not to grant a special exception use, and lists the standards that the Board of Township Supervisors is to employ in determining whether or not to grant a conditional use. Article 4, 'Temporary Uses,' explains what a temporary use is, illustrates the procedures for obtaining permits for one, and lists the standards that the Board of Township Supervisors is to utilize in determining whether or not to grant it. Article 5, 'Supplemental Regulations,' contains regulations that apply to only some kinds of land uses and structures. Article 6, 'Signs,' contains all of the ordinance's sign regulations. Article 7 contains the ordinances administrative provisions that are relevant to a municipal official on a daily basis, but not usually to property owners (administrative provisions that are more relevant to property owners are included in Article 1). Article 8, 'Terminology,' provides a glossary of some of the terms used in this ordinance.

The sections of Article 1 apply to every regulated land use, lot and structure in the Township. Because they address each one of Benezette's zoning districts, the sections of Article 2 also apply to every regulated land use, lot and structure in the Township. However, the sections of Articles 3-7 apply only when a provision of either Article 1 or Article 2 explicitly says so. Municipal officials should be familiar with this entire ordinance, as well as Elk County's Comprehensive Plan.

SECTION 112: The General Purposes of this Ordinance

In accordance with the Pennsylvania Municipalities Planning Code, Act of 1968, P. L. 805, No. 247 as reenacted and amended, this Ordinance adopts the following goals, based on the Elk County Comprehensive Plan, and in satisfaction with the requirements of Section 606 of the Pennsylvania Municipalities Planning Code.

OVERALL GOAL: To make Benezette Township an attractive and functional community in which people will want to live, shop, and work, and where people will want to visit and appreciate elk in their natural habitat.

Goal: To provide for all appropriate land uses necessary to the community in an attractive and functional manner that minimizes conflicts between them.

Obj: To write and adopt zoning and subdivision/land development ordinances that recognize the importance of carefully monitoring the type and quality of development allowed in the Township.

Obj: To preserve land for residential housing development, and protection of the elk's natural resources.

Goal: To provide a maximum of economic opportunities for appropriate commercial growth and preservation of elk consistent with the above goals.

Obj: To enhance, protect, and promote the historical and natural resources of the Township within the context of increasing recreational and cultural tourism.

Goal: To preserve environmentally sensitive lands, watersheds, and associated habitats.

Obj: To preserve and protect open space and passive recreation areas from the harmful effects of overuse and development.

SECTION 115: Authorization

The establishment of zoning districts within municipalities such as Benezette Township, the assignment of regulations to these districts, and the assignment of administrative structures and procedures to these regulations for purposes like those given in Section 112 of this ordinance have been authorized by the Pennsylvania Municipalities Planning Code, Act of 1968, P. L. 805, No. 247, as reenacted and amended.

SECTION 118: The Effective Date of this Ordinance's Enactment

The effective date of this ordinance's enactment shall be the date that this ordinance was enacted by the Benezette Township Board of Township Supervisors. This date is shown above the signatures on the signature page in the Appendix of this document.

SECTION 121: Interpreting the Language of this Ordinance

For the purposes of this ordinance, words shall be interpreted as follows unless noted otherwise.

- A. Words that are defined in Article 8, ‘Terminology’, shall be interpreted as they are defined there. Undefined terms must be given their usual and ordinary meaning within the Township.
- B. Words used in the present tense shall imply the future tense as well.
- C. The word ‘person’ refers to firms, associations, organizations, trusts, partnerships, companies, corporations, and individual persons
- D. The word ‘shall’ infers a mandatory sense.
- E. The word ‘may’ infers a permissive sense.
- F. The word ‘lot’ is a synonym of ‘plot, piece, and parcel’.
- G. The words ‘used’ and ‘occupied’, as applied to any lot or building, shall imply the words ‘intended, arranged, maintained, and/or designed to be used or occupied’.
- H. The word ‘day’ shall be interpreted as being a full calendar day.
- I. When the meaning of a regulation as it applies to a given property is not clear shall be interpreted in favor of that property and against any implied extension of the regulation.

SECTION 124: Conflict with other Regulations

Where a provision of this ordinance conflicts with a provision of another ordinance, state law, or federal law, the stricter of the two shall apply. Where the applicable provision of this ordinance is the less strict of the two, it shall not apply. However, the remainder of this ordinance shall remain in full force and effect.

SECTION 127: Conflict with Floodplain Regulations

All structures and plans for structures within the Township’s floodplain as defined by the Township and/or its relevant ordinances are subject to the floodplain regulations enacted by the Township and/or these ordinances. Furthermore, all structures and plans for structures within the Township’s floodplain as defined by any relevant federal and state legislation shall be subject to the floodplain regulations imposed by that legislation. Where any such ordinance or law imposes stricter regulations than the relevant parts of this ordinance do, those parts of this ordinance shall be null and void. Furthermore, where the provisions of any such ordinance or law contradict the provisions of this ordinance, the stricter of the two shall apply. In both instances, the parts of this ordinance that are not relevant to the provisions of the other law or ordinance shall remain in effect.

SECTION 130: Severability

The provisions of this act shall be severable, and should any section or provision of this ordinance be declared invalid or unconstitutional by a court of competent jurisdiction, the validity of any remaining sections or provisions shall not be declared invalid or unconstitutional.

SECTION 133: Applicability of this Ordinance to private agreements

This ordinance shall not annul any easements, covenants, or private agreements. However, the existence of any such easement, covenant, or private agreement shall not affect the enforceability of this ordinance.

SECTION 136: Application of Regulations during local emergencies

The Benezette Board of Township Supervisors may temporarily waive some of the regulations of this ordinance during a local emergency.

SECTION 139: General Rules for land uses and lots

All land uses shall be allowed on lots as a permitted principal use, permitted accessory use, special exception use, conditional use, and/or temporary use. The actual uses allowed on a lot are a determined by the zoning district of that lot (see Section 265, 'Land Uses'). However, the following rules shall apply to the establishment of land uses on lots in all districts.

- A. No permitted accessory use shall be constructed more than 180 days before the use for which it is accessory.
- B. Mines and other structures located exclusively below the surface of the earth are not regulated by this ordinance. However, adjunct facilities to underground mines are addressed.

SECTION 142: Parking facilities and temporary events

A. Parking Facilities and Zoning District Regulations: All parking facilities are subject to the regulations of the zoning district in which they are located unless this ordinance specifically states otherwise. Furthermore, all parking garages are subject to the regulations on structures imposed by the zoning district in which they are located.

B. Emergency and Non-Profit Temporary Events: Any parking or loading requirement of this ordinance may be waived by Board of Township Supervisors for emergency or non-profit temporary events.

SECTION 145: Classification of Businesses that consist of several uses

For the purposes of this ordinance, businesses that consist of several land uses shall be classified as the constituent land use that this ordinance regulates the most strictly. If a land use is not a permitted use in a district, then any business which is partly composed of that land use is not a permitted use in that district.

SECTION 148: Zoning Permits

A. A Zoning Permit is Needed: Before a property owner may have a non-sign structure erected, reconstructed, structurally altered, or moved on his or her lot; or have a nonconforming, non-sign structure reconstructed, structurally altered, or moved on his or her lot, he or she must first obtain a zoning permit (unless this ordinance specifically states otherwise). Article 6, 'Signs,' explains when zoning permits are required for signs. No land improvements or other development activities shall be commenced before the involved property owner has a zoning permit for these activities.

B. The Procedure for Obtaining a Zoning Permit: Anyone who wishes to obtain a zoning permit shall follow the procedure below.

1. Applications: Applications for a zoning permit shall be submitted in writing on a form prescribed by the Zoning Officer along with payment of the required fees set by the Board of Township Supervisors. Applications shall be submitted with plans prepared in accordance with the Zoning Officer's requirements and shall contain all of the information that is necessary to determine compliance with this and all other pertinent ordinances and laws. An application shall become a public record when it is officially filed.

2. The Issuance or Denial of a Permit: An application shall not be officially filed until all required information has been submitted. Within 30 days of this official filing as determined by the Zoning Officer, the Zoning Officer shall either issue or deny the zoning permit. The Zoning Officer shall not issue a permit unless it is determined that (1) the proposed development complies with the provisions of this and all other pertinent ordinances, and (2) all other required approvals and permits have been obtained from the applicable Township, County, State, and Federal agencies. If these determinations are made, then the Zoning Officer shall issue a zoning permit. If the Zoning Officer does not act within the required time period, then the permit shall be deemed to be issued.

C. Vested Rights: Nothing in this ordinance shall require any change in the development or use of a lot or structure for which a zoning permit was lawfully issued prior to the effective date of this ordinance's enactment (or the effective date of an amendment to this ordinance), provided that development (other than excavations) has begun or contracts have been let pursuant to the permit. However, any zoning permit which was issued after

the first public hearing on this ordinance (or an amendment to this ordinance) but prior to the effective date of this ordinance's enactment (or the amendment's enactment) shall be declared void if the involved development does not conform to the provisions of this ordinance, development (other than excavations) has not begun, and contracts have not been let pursuant to the permit.

D. Development Changes: If a zoning permit is issued, the involved development shall not deviate from the plans and other information submitted to the Zoning Officer without the written approval of the Zoning Officer, or the Board of Township Supervisors in the case of a conditional or temporary use and the Zoning Hearing Board in the case of a special exception. Requests for all such approvals shall be submitted in writing to the Zoning Officer.

E. The Duration of Zoning Permits: A zoning permit shall expire within one calendar year of the date of issuance if the involved development activities have not been commenced. All development activities must be completed no later than 2 calendar years from the date of issuance.

F. Inspections: In order to determine if the information submitted on or with an application is true and is being adhered to, the Zoning Officer shall have the authority to enter any building, structure, premises, property, or development in the Township at any reasonable hour upon presentation of proper credentials.

G. Revocation of Permits: If the Zoning Officer discovers that the development does not comply with the approved application or any applicable laws or ordinances, or if the Zoning Officer determines that an applicant has made any false statements or misrepresentations regarding the development, the Zoning Officer shall revoke the zoning permit and proceed with whatever legal action is necessary to correct the violation (see Section 160, 'Enforcement').

H. Permits Issued in Error: Any zoning permits issued in error shall be null and void.

I. Appealing the Zoning Officer's Determination: The applicant may appeal the denial of a zoning permit, and aggrieved persons or neighbors may appeal the issuance of a zoning permit, as specified in Section 169, 'Appealing the Determination of a Municipal Officer.'

SECTION 151: Occupancy Permits

A. When an Occupancy Permit is Needed: Before any property owner may use or occupy his or her new and/or vacant lot; use or occupy his or her new, reconstructed, structurally altered, moved, and/or vacant non-sign structure; or change the use of his or her non-sign structure or lot, an occupancy permit must be obtained (unless this ordinance specifically states otherwise). Article 6, 'Signs,' explains when occupancy permits are needed for signs.

B. The Procedure for Obtaining an Occupancy Permit: After the completion of all development activities, but before the involved structure and/or lot is used or occupied, the applicant shall notify the Zoning Officer and pay the required fees set by Board of Township Supervisors, The Zoning Officer shall examine the involved structure and/or lot within 10 days of this notification and payment. If the structure, lot, and the involved use comply with the provisions of this ordinance, other applicable ordinances and laws, and any plans approved for a zoning permit, then the Zoning Officer shall issue an occupancy permit. Otherwise, he or she shall not. If the Zoning Officer does not act within the required time period, then the permit shall be deemed to be issued.

C. Temporary Occupancy Permits: The Zoning Officer may issue a temporary occupancy permit which allows the use, partial use, or occupancy of the involved structure or lot during development activities. Such a permit shall be valid for no longer than 3 months.

D. Inspections: In order to make the determinations required by letter 'B' of this section, the Zoning Officer shall have the authority to enter any building, structure, premises, property, or development that is in question or in need of a permit in the Township at any reasonable hour upon presentation of proper credentials.

E. Revocation of Permits: If the Zoning Officer discovers that the applicant has made any false statements or misrepresentations regarding the development, the Zoning Officer shall revoke the occupancy permit and proceed with whatever legal action is necessary to correct the violation (see Section 160, 'Enforcement').

F. Permits Issued in Error: Any occupancy permits issued in error shall be null and void.

G. Appealing the Zoning Officer's Determination: The applicant may appeal the denial of an occupancy permit, and aggrieved persons or neighbors may appeal the issuance of an occupancy permit, as specified in Section 169, 'Appealing the Determination of a Municipal Officer'.

H. The Duration of Occupancy Permits: Non-temporary occupancy permits shall be valid for the lifespan of the involved development, except if that development is either a temporary sign on private property (in which case the permit shall only be valid for 30 days) or a temporary sign on a public right-of-way (in which case the permit shall only be valid for 60 days).

SECTION 154: Nonconformities

A. The Purpose, Organization, and Applicability of this Section: A nonconformity is defined for the purposes of this ordinance as a land use, lot, or structure that (1) was legally established before the effective date of this ordinance's enactment (see Section 118, 'The Effective Date of This Ordinance's Enactment'), and (2) does not conform to the substantive regulations of this ordinance. Because nonconformities were legally

established, and because their owners could not have known what the regulations of this ordinance were going to be in advance, the owners have a legal and ethical right to continue their nonconformities. However, this ordinance would be unable to fulfil most of its purposes from Section 112; do much to protect the people, homes, and businesses of Benezette from facilities that do not follow this ordinance; or have much of an effect on the Township over the next half-century if it could not eliminate nonconformities. Thus, a compromise must be provided that allows the owners of nonconforming uses, structures, or lots to use and maintain these investments while this ordinance gradually eliminates them. The purpose of this section is to provide such a compromise.

Note that this section does not regulate nonconforming signs; Article 6 does. With this sole exception, letter 'B' provides some rules concerning nonconforming structures, land uses, and lots. Letter 'C' only addresses nonconforming structures, and letter 'D' only addresses nonconforming land uses.

B. General Rules concerning nonconformities: The following rules apply to or concern all nonconforming structures, land uses, and lots.

1. The Zoning Officer shall keep and maintain a list of all nonconformities that exist in the Township on the effective date of this ordinance's enactment (see Section 118, 'The Effective Date of This Ordinance's Enactment') and on the effective dates of any amendments to either this ordinance or its map.
2. The owner of a nonconformity may obtain a 'certificate of nonconformity' from the Township's Zoning Officer. This certificate shall state that the owner's right to continue his or her nonconformity is guaranteed.
3. Aggrieved parties and the involved landowner may both appeal the Zoning Officer's determination of whether a property is nonconforming according to the rules of Section 169, 'Appealing the Determination of a Municipal Officer'.
4. Any structure, land use, or lot that was illegally established under a previous zoning ordinance or land use regulation shall remain illegal under this ordinance, even if it conforms to the regulations of this ordinance. No illegal structure, land use, or lot shall become a nonconformity under this ordinance.
5. Any structure, land use, or lot that becomes a nonconformity due to an amendment made after the effective date of this ordinance's enactment shall be subject to the regulations of this section.

C. Nonconforming structures or buildings: The following rules apply to all nonconforming structures.

1. A nonconforming structure or building may be altered, enlarged, repaired, or reconstructed provided that:

- a. its nonconformity or nonconformities are not increased;
 - b. it will comply with the other applicable requirements of this ordinance;
 - c. all necessary zoning and occupancy permits are obtained (see Sections 148 and 151);
 - d. it follows any applicable building codes; and
 - e. it has not been abandoned, which shall be defined as having its windows or doors boarded up, having its maintenance discontinued and/or being unused for a total of 12 months within an 18-month period.
2. A nonconforming structure or building may be reconstructed after has been partially destroyed by a natural or artificial disaster, and any nonconforming use within it may be continued, provided that:
- a. the regulations under Letter C, Number 1 above are followed;
 - b. a zoning permit has been acquired for its reconstruction within one year of the involved disaster; and
 - c. the damage to it does not exceed 99% of its fair market value.
3. A conforming use in a nonconforming structure may expand within that structure.

D. Nonconforming Uses: The following rules apply to all nonconforming uses.

1. To allow for natural economic growth, a nonconforming use may expand in terms of gross floor area or lot coverage up to 25%, provided that the use's owner can prove to the Township's Zoning Hearing Board, via the procedure outlined in Section 705, 'The Zoning Hearing Board,' that:
 - a. no aspect of the structure or structures that contain or will contain the use shall become either nonconforming or more nonconforming than it was before;
 - b. the use does not expand on to property that was acquired after the use became nonconforming;
 - c. the expansion does not eliminate off-street parking spaces or loading berths required by this ordinance; and

d. such an expansion is necessary to accommodate a normal increase in business.

2. If a nonconforming use is changed to a conforming use, it shall not be subsequently changed back to a nonconforming use.

3. A nonconforming use may be changed to another nonconforming use if the use's owner can prove to the Township's Zoning Hearing Board, via the procedure outlined in Section 705, 'The Zoning Hearing Board,' that the proposed use is the same type of use as the original use or is a use that conforms closely to the purpose and regulations of the involved zoning district than the original use. In making a judgement on similar uses, the Zoning Hearing Board shall be guided by the use classification system in the Standard Industrial Classification Manual, Federal Office of Management and Budget, current edition.

4. A nonconforming use that has been abandoned shall not be returned to a nonconforming use of any kind. A nonconforming use shall be abandoned when one or more of the following conditions have been met.

a. The owner's intent to discontinue the use is apparent through such actions as the boarding up of windows, the boarding up of entrances, or the discontinuation of maintenance, for example;

b. The use has been discontinued for a total of 12 months within an 18-month period;

c. The use has been replaced by a confirming use; or

d. The use has been changed to another nonconforming use as required by letter 'D', Number 3 above.

5. A special exception or conditional use shall not be considered a nonconforming use, but rather a lawful conforming use.

6. Any use that (1) exists at the effective date of this ordinance's enactment (see Section 118, 'The Effective Date of This Ordinance's Enactment'), (2) is allowed in its zoning district only as a special exception or conditional use, and (3) has not been recognized as a special exception or conditional use as required by Article 3 ("Special Exceptions and Conditional Uses") shall be a nonconforming use.

SECTION 157: Variances

A. The Purpose of Variances: The regulations of this ordinance apply to and are designed to address the conditions of either the entire Township or an entire zoning district. Thus, they are not precisely geared to any one property. The regulations were designed in this

manner to avoid unequal, unfair, or arbitrary treatment of different property owners. Because these generalized regulations were not designed with any one property in mind, however, it is possible, in a few situations, that they could prevent any use of a property. The function of a variance is to provide relief from such a situation. A variance gives a property owner or tenant permission to do something that violates a provision of this ordinance to keep him or her from suffering an "unnecessary hardship" due to that provision.

However, variances should not be given freely. If every property owner or tenant who suffered any kind of hardship due to the regulations of this ordinance was granted a variance, then this ordinance would be completely unable to fulfil its purposes and would be nothing but a waste of time and money. Thus, letter "D" below specifies conditions that the Zoning Hearing Board is to use to distinguish genuine unnecessary hardships from common inconveniences.

B. Who May Apply for a Variance: Any landowner or tenant who has the permission his or her landlord may apply for a variance.

C. The Procedure for Obtaining a Variance: A party listed in letter "B" above who wishes to obtain a variance must submit a written application to the Zoning Officer on a form supplied by the Township. This application shall specifically cite the provisions of this ordinance from which the applicant is seeking relief. After determining that the application is complete, the Zoning Officer shall forward the application to the members of the Zoning Hearing Board. At the involved hearing, the Zoning Hearing Board shall follow the procedure specified in Section 705, "The Zoning Hearing Board. If the Zoning Hearing Board decides to grant a variance, it may attach any reasonable conditions that it feels are necessary to forward the purposes of this ordinance. Appeals to the Board's decision may be made to the court of common pleas in the judicial district where the involved property is located.

D. The Conditions that the Zoning Hearing Board is to Use: The Zoning Hearing Board shall only grant a variance when it makes all of the following five findings:

1. that there are unique and peculiar physical conditions present on the involved property, such as the size, shape, or topography of the involved lot, that were not created by the provisions of this ordinance;
2. that, because of these conditions, there is no possibility that the involved property can be developed in strict conformity with the provisions of this ordinance, that if these provisions were rigidly implemented, the property would be virtually unusable and without any economic value;
3. that this unnecessary hardship was not created by the applicant property owner/tenant or any of his or her predecessors;

4. that the variance requested, if granted, (1) will not alter the essential character of the involved neighborhood or zoning district, (2) will not substantially or permanently impair the appropriate use or development of any adjacent properties, and (3) will not be detrimental to the public welfare.; and

5. that the variance, if granted, will be the smallest possible modification of the involved regulation that will provide relief from this regulation.

SECTION 160: Enforcement

A. The Purpose, Organization, and Applicability of this Section: The purpose of Section 160 is to prescribe procedures that will effectively enforce the provisions of this ordinance while (1) protecting the legal rights of property owners, and (2) adhering to the rules for zoning ordinance enforcement that are established in the Pennsylvania Municipalities Planning Code (Act of 1968, P.L. 805, No. 247, as reenacted and amended). These procedures apply to situations in which a person, partnership, or corporation erects, reconstructs, alters, maintains, establishes, or uses a structure, sign, building, lot, or land use in a manner that violates one or more of the provisions of this ordinance. In other words, these procedures apply to situations involving an illegal structure, sign, lot, or use. They do not apply to situations involving a structure, sign, lot, or use that is a nonconformity (as defined in Section 154, ‘Nonconformities’) or that has a variance (as defined in Section 157, ‘Variances’).

In Pennsylvania, zoning ordinances are enforced through legal proceedings. These proceedings may be instituted by the following groups of people.

1. The Board of Township Supervisors;
2. An officer of the Township (e.g., the Zoning Officer) with the approval of Board of Township Supervisors; or
3. An aggrieved party who would be substantially affected by the alleged violation.

The procedure that is to be used by the first two of these groups is discussed under letter "B" below. The procedure that is to be used by aggrieved parties is discussed under letter "C" below.

B. Township Enforcement Procedure: If it appears to the Township that a violation of this ordinance has occurred, then enforcement proceedings shall be instituted as described below.

1. Before any other enforcement actions begin, the Zoning Officer shall send an enforcement notice to the following parties:
 - a. the owner of record of the parcel on which the violation has occurred;

b. any person who has filed a written request to receive enforcement notice regarding the involved parcel; and

c. any person that the owner requested, in writing, to receive a copy.

2. Each enforcement notice required by this section shall contain:

a. the name of the involved landowner and any other persons against whom the Township intends to take action;

b. the location of the property in violation;

c. a description of the specific violation involved,

d. citations and descriptions of the specific provisions of this ordinance which have been violated;

e. the date before which the steps for compliance must be commenced, as well as the date before which these steps must be completed; and

f. a statement noting that the recipient has the right to appeal the enforcement notice to the Zoning Hearing Board within 30 days, and that failure to comply with the notice within this time period, unless it is extended by appeals, constitutes a violation of this ordinance, with possible sanctions clearly described.

3. In a Zoning Board hearing where an enforcement notice is appealed, the Township shall present its evidence against the appellant first.

4. Any filing fees paid by a party to appeal an enforcement notice to the Zoning Hearing Board shall be returned to that party by the Township if the Board or any court in a subsequent appeal rules in the appellant's favor.

5. After all necessary enforcement notices are sent as required above, the Board of Township Supervisors and officers of the Township acting with the Board of Township Supervisors' approval may institute civil proceedings with the appropriate district justice to enforce the provisions of this ordinance - and to prevent, restrain, correct, or abate an illegal structure, sign, lot, or land use. Any person, partnership, or corporation who has violated or permitted the violation of this ordinance shall, upon being found liable in a civil enforcement proceeding, pay a judgement of not more than \$500 plus all court costs - including all reasonable attorney fees incurred by the Township. No penalties shall be imposed on the liable party until the date of the determination of a violation by the involved district justice. If the liable party neither pays nor appeals the judgement in a timely

manner, the Township shall enforce the judgement pursuant to the applicable rules of civil procedure.

6. Each day that a violation continues shall constitute a separate violation, unless the district justice finds that there was a good faith basis for the liable party to have believed that there was no such violation. In this situation, there shall be only one violation until the fifth day following the date of the determination of a violation by the district justice - after which each day that the violation continues shall constitute a separate violation.

7. The court of common pleas, upon petition, may grant an order of stay, upon cause shown, tolling the per diem fine pending a final adjudication of the violation and judgement.

C. Aggrieved Party Enforcement Procedure: Aggrieved parties may file an equity action in court (i.e., not with the district justice) to enforce the provisions of this ordinance - and prevent, restrain, correct, or abate an illegal structure, sign, lot, or land use. Such parties may file such an action only after serving notice to Benazette Township at least 30 days in advance. This notice is to allow the Township time to investigate the situation and to issue an enforcement notice, if warranted.

SECTION 163: Procedural Challenges

A. The Purpose and Applicability of this Section: The Pennsylvania Municipalities Planning Code (Act of 1968, J.L. 805, No. 247 as reenacted and amended) specifies procedures that are to be used to adopt and amend this ordinance. These procedures are designed to offer ample opportunities for public participation and to make the ordinance as fair as possible. It is feasible, however, that this ordinance or any one of its amendments was not adopted according to these procedures, and thus, is procedurally flawed. The purpose of this section is to give landowners and other parties aggrieved by such a flaw - as well as officers and agencies of the Township itself - a process through which they may challenge the procedural validity of the ordinance or amendment. This process may be used to guarantee adequate public participation and fairness in the adoption process, and to overturn any unfair ordinances or amendments.

B. Where Procedural Challenges may be Heard: The parties named in letter "A" above may file a procedural challenge with either the relevant court of common pleas or the Zoning Hearing Board. However, challenges made to the initial zoning ordinance before the Zoning Hearing Board is established may only be taken to court. Procedural challenges taken to the Zoning Hearing Board may have to follow the rules established by Section 172 ('Time Limitations'), and the Board shall hear all such challenges according to the procedure given in Section 705, 'The Zoning Hearing Board.'

C. Time Limitations: All such challenges shall be raised by an appeal taken within 30 days of the effective date of enactment for the involved ordinance or amendment.

SECTION 166: Substantive challenges

A. The Purpose and Applicability of this Section: The Constitution of the United States, the Constitution of the Commonwealth of Pennsylvania, and various federal and state laws significantly limit what this ordinance may regulate - so that the rights and property of Benezette citizens and neighbors are protected. It is feasible, however, that one or more of this ordinance's provisions violate these laws, and are thus substantively flawed. The purpose of this section is to give landowners and other parties aggrieved by such a flaw - as well as officers and agencies of the Township itself, a process through which they may challenge the substantive validity of the involved provision. This process may be used to insure that this ordinance respects the laws of the United States and the Commonwealth, as well as to overturn any illegal or unconstitutional provisions.

B. Landowner Curative Amendments and Substantive Validity Challenges: A party named under letter "A" above who wishes to challenge the substantive validity of this ordinance has the following two choices.

1. applying to the Board of Township Supervisors for a "landowner curative amendment"; or
2. requesting that the Zoning Hearing Board hear a substantive validity challenge.

A person or party who wishes to challenge the substantive validity of this ordinance because he or she is aggrieved by a use or development permitted on another person's land must first select the second choice. However, all the other named parties are free to choose from these options.

Landowner curative amendments and substantive validity challenges are essentially the same type of appeal, with some minor procedural differences. A validity challenge must be in writing and contain reasons for the challenge, but unlike the curative amendment, does not have to contain materials describing the proposed development or amendments.

When (1) a landowner curative amendment proposal is approved by Board of Township Supervisors, (2) a substantive validity challenge is sustained by the Zoning hearing Board, or (3) the relevant court sustains either of these actions in a final appeal, the involved Developer may (1) file a subdivision application within two years and (2) apply for a zoning permit within one year without losing the rights granted to him in the relevant validity challenge to a subsequent change or amendment in any land use ordinance.

C. Landowner Curative Amendments: Applications for a landowner curative amendment shall be governed by the rules below.

1. All such applications shall be made to the Zoning Officer, who shall forward them to the Board of Township Supervisors. These applications may be subject to the time limitations of Section 172, 'Time Limitations.'
2. All such applications shall be made in writing, and shall contain the following:
 - a. the reasons why the ordinance should be amended as proposed;
 - b. plans and explanatory materials describing the use or development proposed by the landowner in lieu of the use or development, allowed by this ordinance (these plans must be of sufficient quality and detail to allow an evaluation of this ordinance in light of the proposed use or development); and
 - c. the amendment or amendments that the landowner purposes to cure the alleged defects in this ordinance.
3. The Board of Township Supervisors shall hear and decide on applications for landowner curative amendments as required in Section 710, 'The Board of Township Supervisors.'
4. Appeals to the Board of Township Supervisors' decision shall be taken to the Court of Common Pleas in the judicial district where the involved property is located.

D. Substantive Validity Challenges Before the Zoning Hearing Board: Requests for a hearing before the Zoning Hearing Board on a substantive validity challenge to this ordinance shall be governed by the rules below.

1. All such requests shall be made to the Zoning Officer, who shall forward them to the Zoning Hearing Board. These applications may be subject to the time limitations of Section 172, 'Time Limitations.'
2. All such requests shall be made in writing and shall contain the reasons for the involved challenge.
3. The Zoning Hearing Board shall decide (1) whether or not to hear such a request, and (2) whether or not to grant such a request according to the requirements of Section 705, 'The Zoning Hearing Board.'
4. Appeals to the Zoning Hearing Board's decision shall be taken to the court of common pleas in the judicial district where the involved property is located.

SECTION 169: Appealing the Determination of a Municipal Officer

Any landowner or party who is affected by a zoning-related determination of a municipal officer (e.g., the zoning officer) may appeal this determination to the Zoning Hearing Board. Such appeals may concern (but are not limited to):

- A. the granting or denial of any permit, including a failure to act on the application;
- B. the issuance of any enforcement notice via Section 160, 'Enforcement'; or
- C. the registration or refusal to register any nonconforming use, structure, or lot.

Time limitations may be placed on such appeals by Section 172, 'Time Limitations.' The Zoning Hearing Board shall hear all such appeals according to the provisions of Section 1705, 'The Zoning Hearing Board.'

Any landowner or party who is affected by a zoning-related determination of a municipal officer may also appeal this determination to the relevant court of common pleas.

SECTION 172: Time Limitations

A. The Purpose, Organization, and Applicability of this Section: If the period of time in which a landowner could file an appeal concerning a decision that was adverse to his or her proposed use or development was unlimited, then the difficulty and costs of enforcing this ordinance could become prohibitively high. Likewise, if the period of time in which a party who opposed this proposed use or development could file an appeal concerning a decision that approved the use or development was unlimited, then the costs of development could become prohibitively high. The purpose of this section is to avoid both of these situations by limiting the amount of time that both landowners and aggrieved parties have to file for a hearing before the Zoning Hearing Board or (where applicable) the Board of Township Supervisors when a proposed use or development is involved.

The rules of this section, which are listed under letter "B" below, only apply to:

1. a landowner who wishes to appeal a decision by the Zoning Officer not to grant a zoning permit for his or her proposed construction, reconstruction, alteration, or other physical development (see Section 148, 'Zoning Permits');
2. an aggrieved party who wishes to appeal a decision by the Zoning Officer to grant a zoning permit to another party's proposed construction, reconstruction, alteration, or other physical development (see Section 148, 'Zoning Permits');
3. a landowner who wishes to appeal a decision by the Zoning Officer not to grant an occupancy permit for his or her proposed land use (see Section 151, 'Occupancy Permits');

4. an aggrieved party who wishes to appeal a decision by the Zoning Officer to grant an occupancy permit to another party's proposed land use (see Section 151, 'Occupancy Permits');
5. a landowner or an aggrieved party who wishes to appeal a decision by the Zoning Officer concerning the nonconforming status of a structure, land use, or lot (see Section 154, 'Nonconformities');
6. a landowner who wishes to contest the Zoning Officer's issuance of an enforcement notice for his property (see Section 160, 'Enforcement');
7. a landowner who wishes to reverse or limit a decision that (1) was made by the Zoning Officer according to the provisions of this ordinance, and (2) opposes the landowner's proposed use or development', by challenging the procedural or substantive validity of this ordinance before either the Zoning Hearing Board or (where applicable) Board of Township Supervisors (see Section 163, 'Procedural Challenges,' or Section 166, 'Substantive Challenges'); and
8. an aggrieved party who wishes to reverse or limit a decision that (1) was made by the Zoning Officer according to the provisions of this ordinance, and (2) approves a proposed use or development on another party's land', by challenging the procedural or substantive validity of this ordinance before either the Zoning Hearing Board or (where applicable) Board of Township Supervisors (see Section 163, 'Procedural Challenges,' or Section 166, 'Substantive Challenges').

B. Time Limitation Rules:

1. If the reason behind a hearing before either the Zoning Hearing Board or Board of Township Supervisors is to reverse or limit the Zoning Officer's approval' of a third party's proposed use or development in any manner, then the request for that hearing must be filed no later than 30 days after the involved approval was given. If the person filing such a request has succeeded to his or her interest after the involved approval was given, then he or she shall be bound by the knowledge of his predecessor in interest.
2. All appeals from decisions that are adverse to the involved landowner shall be filed with the involved body within 30 days of the notice of this decision.

SECTION 175: PRELIMINARY OPINIONS

A. The Purpose of Preliminary Opinions: According to Section 172, 'Time Limitations,' any aggrieved party who wishes to stop or limit a proposed construction, reconstruction, alteration, or other physical development by challenging either the procedural or

substantive validity of this ordinance (see Section 163, "Procedural Challenges, "and Section 166, "Substantive challenges ") may only do so within 30 days of the development's receiving a zoning permit (see Section 148, "Zoning Permits"). Likewise, any aggrieved party who wishes to stop or limit a proposed land use by challenging either the procedural or substantive validity of this ordinance may only do so within 30 days of the use's receiving an occupancy permit (see Section 151, "Occupancy Permits"). "Preliminary opinions" are a tool that the landowner who is proposing the involved development or use may employ to shorten this 30 day period.

B. The Procedure for Obtaining a Preliminary Opinion: Preliminary opinions may be obtained by following this procedure.

1. The involved landowner shall submit plans and other materials describing his or her proposed use or development to the Zoning Officer for a preliminary opinion on their compliance with the ordinances and maps that are applicable at the time. These plans and materials must be of sufficient detail and quality to allow the Zoning Officer to make a determination as to whether or not the proposed use or development is in compliance.
2. If the Zoning Officer's preliminary opinion is that the proposed use or development complies with all applicable ordinances and maps, then notice of this shall be published once a week for two consecutive weeks in a newspaper of general circulation within Benezette Township. This notice shall include (1) a general description of the proposed use or development, (2) its location, and (3) the places and times where the plans and other materials may be examined by the general public.
3. The Zoning Officer's decision regarding a preliminary opinion may be appealed to the Zoning Hearing Board (see Section 705, 'The Zoning Hearing Board') or the relevant court of common pleas.

C. How an Approved Preliminary Opinion Affects the Time Limits of Section 172: If the Zoning Officer approves the proposed use or development as specified under letter "B" above, then the 30 day period during which an aggrieved party may stop or limit the proposed use or development by challenging the procedural or substantive validity of this ordinance (see Section 163, 'Procedural challenges,' and Section 166, 'Substantive Challenges') begins on the date that the second notice is published - instead of the date on which the proposed use or development receives the applicable permit.

SECTION 178: Appeals to Court

The final adjudication of any Township officer or body is appealable to the court of common pleas of the involved property's county and judicial district. Nothing in this ordinance shall be construed to deny an appellant the right to bypass either the Zoning Hearing Board or Board of Township Supervisors, and proceed directly to court, where appropriate. Furthermore, nothing in this

ordinance shall be construed to deny the right to bypass the procedures for challenging the procedural or substantive validity of this ordinance that are given in this article.

SECTION 181: Amending this Ordinance

This ordinance may be amended through a landowner curative amendment, a municipal curative amendment, or a common amendment. The purposes behind and procedures for landowner curative amendments are given in Section 166, 'Substantive Challenges.' Municipal curative amendments are only used by Board of Township Supervisors, are used to cure substantial validity problems within this ordinance, and are addressed in Section 710, 'The Board of Township Supervisors.' Common amendments are also addressed in Section 710, 'The Board of Township Supervisors.'

ARTICLE II

ZONING DISTRICT PROVISIONS

SECTION 200: THE PURPOSES, ORGANIZATION, AND APPLICABILITY OF ARTICLE 2

A. Purposes and Organization: The purposes served by this ordinance's regulations are given in Article 1, Section 112, 'The General Purposes of This Ordinance,' and are taken from the Community Development Goals and Objectives. To (1) fulfill these purposes to the fullest extent possible, (2) recognize the differing present-day statuses and goals of Benezette's various neighborhoods, and (3) eliminate unnecessary constraints on the Township's property owners, most of this ordinance's regulations should not be applied uniformly across the Township. Instead, they should be applied only to the areas of the Township where they are appropriate and will clearly fulfill the purposes of this ordinance. To this end, Section 205 of this article divides the Township into "zoning districts," each of which (1) is composed of neighborhoods with similar present-day statuses and goals, and (2) faces a set of regulations that is different than the set faced by every other zoning district. Section 210 establishes the "Official Zoning Map of Benezette Township," which shows the physical locations of these districts.

Each section of this article from Section 215 to Section 230 addresses one of these zoning districts: providing (1) regulations that apply to that district, (2) a reference to Section 265 (which lists the land uses allowed in each zoning district), and (3) a reference to Section 270 (which lists the setbacks, height regulations, and lot requirements of each district). Sections 265 and 270 also reference various parts of the rest of this ordinance.

B. Applicability: Sections 205 and 210 of this ordinance establish Benezette's zoning districts, and thus, apply to every property in the Township. However, Sections 215 through 230 each address only one zoning district. Thus, the only one of these sections that applies to a given property is the section that addresses that property's zoning district.

Because Sections 265 and 270 are referred to by each section from Section 215 to Section 230, they apply to all zoning districts - and thus to all properties - within the Township. However, Section 265 and 270 are arranged in a table form, so that only one, column within' each table applies to any given zoning district and the properties therein.

Thus, the reader should read (1) Section 205, (2) Section 210, (3) the section between Section 215 and Section 230 that applies to the zoning district of the property in which he or she is interested, (4) Section 265, (5) Section 270, and (6) any parts of the rest of this ordinance that are referenced in Article 2 and relevant to the reader's concerns.

SECTION 205: ESTABLISHMENT OF ZONING DISTRICTS

To properly carry out the purposes of this ordinance as listed in Article 1, Section 112, ‘The General Purposes of This Ordinance,’ Benezetette Township is hereby divided into zoning districts. These districts shall be designated as follows:

The Zoning District’s Full Name	The Zoning District’s Abbreviated Name
Residential District	R
Commercial District	C
Agricultural District	AG

SECTION 210: ESTABLISHMENT OF THE OFFICIAL ZONING MAP

A. The Official Zoning Map of Benezetette Township: The locations and boundaries of the districts listed in Section 205 shall be displayed on the "Official Zoning Map of Benezetette Township." This map shall be certified as the true zoning district map adopted by Benezetette Township by (1) the signature of the Chairman of the Board of Township Supervisors - attested to by the Township Secretary - and (2) the Seal of the Township underneath the words "This is to certify that this is the Official Zoning Map referred to in the Benezetette Township Zoning Ordinance." The Official Zoning Map shall be kept on display at the Township Building, shall be maintained by the Township’s Zoning Officer, and shall serve as the ultimate authority on the location of zoning district boundaries - overruling all copies made of it. The "Official Zoning Map of Benezetette Township" and all information shown thereon are hereby made a part of this article and this ordinance.

B. The Zoning Map in the Appendix: For informational purposes only, a copy of the Official Zoning Map has been attached to this ordinance as an Appendix. However, the Official Zoning Map shall prevail in any dispute between a copy or an alleged copy of the Official Map and the Official Map itself.

C. Amending the Official Zoning Map: Amendments to the Official Zoning Map of Benezetette Township may be pursued as either a simple amendment to this ordinance, a landowner curative amendment, or a municipal curative amendment (see Article 7 Section 710, ‘The Board of Township Supervisors’ for the proper procedures for each of these). Any changes made to the Official Zoning Map by any other means whatsoever shall be considered a violation of this ordinance - punishable as provided under Article 1, Section 160, and ‘Enforcement.’

If an amendment is made to the zoning districts, the Official Zoning Map shall be changed accordingly in a prompt manner. With these changes, an entry shall be made on the map which states "On (the appropriate date), by official action of the Board of Township

Supervisors, the following changes were made to the Official Zoning Map." Brief descriptions of these changes shall be made beneath this statement, and the entire entry shall be signed by the Chairman of the Board of Township Supervisors and attested to by the Township Secretary.

D. Rules for interpreting the Official Zoning Map: The zoning district boundaries established on the Official Zoning map of Benezette Township shall be interpreted according to the following rules:

1. Boundaries indicated as approximately following natural features or the center lines of streets, highways, or alleys shall be construed to follow such center lines;
2. Boundaries indicated as approximately following the boundary line of a recorded lot or separate parcel of land shall be construed as following said line of recorded lot or parcel of land;
3. Boundaries indicated as approximately following Township boundaries shall be construed to follow said Township boundaries; and
4. Boundaries indicated by measured distances on the zoning map shall be determined by such dimension. Distances not specifically indicated on the zoning map shall be determined by the scale of the map.

SECTION 215: The R Residential District

A. District Purposes: The Residential Zoning District was drawn around Benezette's largest residential neighborhoods as well as several undeveloped areas to which these neighborhoods could properly expand. This district was drawn around medium-density neighborhoods of single household, detached homes. These neighborhoods are predominantly composed of single household, detached homes this district's regulations are designed to (1) protect such homes where they are already established, (2) promote similar development in the vacant parts of the district, (3) retain the district's low density, (4) require proper design standards for future development, and (5) enhance the unique character of this district, it's structures, and it's quality of life.

B. The R District Regulations: Each land use, lot, and structure in this district shall follow the regulations below:

1. Within this district, a lot may be used or occupied for the permitted principal uses, permitted accessory uses, temporary uses, special exception uses, and conditional uses that are given for this district in Article 2, Section 265.
2. Unless this ordinance specifically states otherwise, all buildings and lots in this district shall meet the setback requirements, height limitations, and lot restrictions that are specified for this district in Article 2, Section 270.

3. The following vehicle types shall not be parked overnight on a public right-of way in this district.

a. any truck or van that either exceeds 11,000 pounds of gross weight or is designated as a Class 5 vehicle or above by the Pennsylvania Motor Vehicle Code;

b. construction vehicles;

c. recreational vehicles;

d. trailers of any kind, including boat trailers or camper trailers; and

e. agricultural equipment or farm implements.

6. Within this district, all residences shall be secured to a permanent foundation that is adequate to prevent the home from overturning under all but the most severe circumstances. A permanent foundation, at minimum, is constructed with cinder building block at least one foot into the ground. In the case of mobile homes, the minimum construction applies, however, ventilation openings will be allowed in the foundation to prevent decay of the structure. The ventilation openings will be no larger than three inches in diameter if uncovered to protect from all but the smallest materials entering the openings. The ventilation openings may be the reasonable size of a small window if the opening is permanently constructed with fence like covering.

7. Within this district, no more than one residential house or building may be established on a single lot.

SECTION 225: The C Commercial District

A. District Purposes: The Commercial Zoning District was drawn around Benezette's traditional downtown/ commercial and retail areas and an existing neighborhood commercial area. These areas are unique in that they have developed into low-density commercial and residential uses. This district's regulations are designed to protect and promote this mixture, allowing small commercial uses, single-household detached homes, and multi-household residential buildings. Furthermore, these regulations are intended to promote the compatibility of these uses with each other, to insure that future development is built to appropriate standards, and to enhance the unique character of the structures and atmosphere of Benezette.

B. The C District Regulations: Each land use, lot, and structure in this district shall follow the regulations below.

1. Within this district, a lot may be used or occupied for the permitted principal uses, permitted accessory uses, temporary uses, special exception uses, and conditional uses that are given for this district in Article 2, Section 265, 'Land Uses.'
2. Unless this ordinance specifically states otherwise, all buildings and lots in this district shall meet the setback requirements, height limitations, and lot restrictions that are specified for this district in Article 2, Section 270, 'Setback Requirements, Height Limitations, and Lot Restrictions.'
3. Within this district all residences and buildings shall be secured to a permanent foundation that is adequate to prevent the home from overturning under all but the most severe circumstances. A permanent foundation, at minimum, is constructed with cinder building blocks at least one foot into the ground. In the case of mobile homes the minimum construction applies, however, ventilation openings will be allowed in the foundation to prevent decay of the structure. The ventilation openings will be no larger than three inches in diameter if uncovered to protect from all but the smallest materials entering the openings. The ventilation openings may be the reasonable size of a small window if the opening is permanently constructed with fence like covering.
6. Within this district, no more than one residential house or building may be established on a single lot.

SECTION 230: The AG Agricultural District

A. District Purposes: The Agricultural Zoning District was established to maintain and encourage the use of land for agriculture and forestry and to permit certain other activities which are compatible with or supportive of agriculture and forestry. A related purpose of this zone is to avoid scattered development of land for non-agricultural uses which may conflict with or be detrimental to agricultural enterprises or which may result in requirements for public services, facilities, and utilities in excess of those which are normally needed or feasible in rural areas.

B. The AG District Regulations: Each land use, lot, and structure in this district shall follow the regulations below:

1. Within this district, a lot may be used or occupied for the permitted principal uses, permitted accessory uses, temporary uses, special exception uses, and conditional uses that are given for this district in Article 2, Section 265, 'Land Uses.'
2. Unless this ordinance specifically states otherwise, all buildings and lots in this district shall meet the setback requirements, height limitations, and lot restrictions

that are specified for this district in Article 2, Section 270, ‘Setback Requirements, Height Limitations, and Lot Restrictions.’

SECTION 265: LAND USES

A. The Purposes, Organization, and Applicability of this Section: The main function of this section is to show three different sets of information: (1) which land uses are allowed in each of Benezette’s zoning districts, (2) how each use is allowed in each district, and (3) which sections of the remainder of this ordinance (i.e., Articles 3 through 8) apply to each use. The organization and applicability of this section's parts are discussed below. These three sets of information are all shown in this section because they are all organized by land uses and can therefore be displayed on a single multi-page table saving space and making the ordinance easier to read. This multi-page table is located under Subsection D of this section.

The Organization and Applicability of the land use Regulations: The main body of Regulations in this section is contained in the multi-page table of Subsection D. The first 5 columns of this table contain the land use regulations of this ordinance. Sub-section B below explains how to read the information presented in these columns.

Because these land use regulations apply to every zoning district within the Township, they apply to every land use within the Township as well.

B. Land Uses – How to Read the Three Columns of the Table in Letter D: The three columns of the table in Letter D of this section show (1) which land uses are allowed in each of Benezette’s zoning districts, (2) how each use is allowed in each district, and (3) which sections of the remainder of this ordinance (i.e. Articles 3 through 8) apply to each use. The information in these columns shall be interpreted as shown in this subsection.

1. The first (i.e. far left) column of the table in Letter D lists the land uses allowed in Benezette Township. Each row in the table addresses the land use given in its cell under the first column.
2. Each of the second through third columns of the table in Letter D addresses one of the Township's four zoning districts, whose abbreviated name is given in its heading. The characters found in these four columns shall be interpreted as shown in the table below.
3. For land uses not listed in the table under Letter D, the Zoning Hearing Board shall determine (1) which zoning districts they shall be allowed in, (2) how they shall be allowed in those districts, (i.e. as permitted principal uses, permitted accessory uses, conditional uses, etc.), and (3) which sections of the remainder of the ordinance apply to them. The Board may ask the Planning Commission for a recommendation on these matters.

Character	The Character's Meaning
P	This means that the land use shown at the far left of the involved row is a <u>permitted principal use</u> in the involved column's zoning district. As such, the use may be set up on a lot in the involved district so that it is neither subordinate nor incidental to another use on the same lot. Unless the table specifically states otherwise, the establishment and existence of a permitted principal use are subject only to the zoning officer's grant of a zoning permit and an occupancy permit, both of which are to be given on the basis of whether or not the use, its buildings, and its lot comply with the applicable regulations of this ordinance (see Section 145, 'Zoning Permits' and Section 148 'Occupancy Permits.')
A	This means that the land use shown at the far left of the involved row is a <u>permitted accessory use</u> in the involved column's zoning district. As such, the use may be set up on a lot in the involved district so that it is subordinate and incidental to another use on the same lot. Unless the table specifically states otherwise, the establishment and existence of a permitted accessory use are subject only to the zoning officer's grant of a zoning permit and an occupancy permit, both of which are to be given on the basis of whether or not the use, its buildings and its lot comply with the applicable regulations of this ordinance (see Section 145, 'Zoning Permits' and Section 148 'Occupancy Permits').
T	This means that the land use shown at the far left of the involved row is a <u>temporary use</u> in the involved column's zoning district. As such, the use may be temporarily set up on a lot in the involved district subject to the requirements and regulations of Article 4 'Temporary Uses.'
SE	This means that the land use shown at the far left of the involved row is a <u>special exception use</u> (i.e. a 'special exception') in the involved column's zoning district. As such, the use may be set up on a lot in the involved district subject to the approval of the Zoning Hearing Board under the procedures and conditions given in Article 3 'Special Exceptions and Conditional Uses.'
CU	This means that the land use shown at the far left of the involved row is a <u>conditional use</u> in the involved column's zoning district. As such, the use may be set up on a lot in the involved district subject to the approval of the Board of Township Supervisors under the procedures and conditions given in Article 3 'Special Exceptions and Conditional Uses.'
Article X	A reference to a specific article or section of this ordinance that appears below (but in the same cell as) one of the above five characters means that in the involved column's zoning district the establishment and existence of the land use shown at the far left of the involved row is subject to the additional restrictions, conditions, regulations, and/or procedures given in the cited article or section.

D. The Land Use Table:

All lots, structures, and land uses in the Benazette Township shall follow the requirements of the table below.

<u>Land Use</u>	<u>R</u>	<u>C</u>	<u>AG</u>
Agricultural Service business		P	
Antique Shop		P A	
Arcade, pool hall, or dance hall		P A	
Art gallery or Art museum		P A	
Auditorium or Non-commercial Movie theater		P A	
Automobile parts store		P A	
Automobile repair shop		P A	
Automobile Sales		P A	
Bait Shop		P A	
Bakery		P A	
Bank or financial institution		P A	
Bar, tavern, night club		P A	
Basketball court, tennis court	P A	P A	
Beauty parlor, barber shop		P A	
Bed and breakfast establishment	SE Article 3	P A	
Beverage Distributor		P A	
Bicycle repair shop		P A	
Bookstore		P A	
Building, plumbing, welding and/or heating supplies store		P A	
Campground	P A	CU	
Car wash		P A	
Cellular site (i.e. cell site, radio link) or switching office	SE Cell Ord	SE Cell Ord	SE Cell Ord.
Cemetery	P A	P A	
Clubs, lodges		P A	
Community center (non-profit)		P A	
Contractors yard	SE	SE	
Convenience store		P	
Day care center		P A	
Distillery	P A	P A	
Emergency medical or ambulance service	P A	P A	
Farm	P A		
Fences, walls or other screens	A 510	A 510	A
Fire or police station	P A	P A	
Food catering facility		P A	
Food Trucks	T	T	T

Garage (private customer and employee)		A	
Garage (private residential)	A	A	A
Garage sale/yard sale	A	A	A
Garden, greenhouse (private residential)	A	A	P
Gasoline station (all gas station / convenience store businesses shall be classified as a convenience store in this table)		P A	
Government building	P A	P A	
Grocery store, supermarket		P	
Group home exclusively for a class of people protected by the ADA, the Fair Housing Act or their amendments		P	
Gunsmith, hunting supplies store		P A	
Gun/Shooting range		SE	
Hardware store		P A	
Health club		P A	
Historical use or historical museum	P	P	
Home occupation	A 505	A 505	
Hotel, motel, inn			
Kennel or animal grooming facility		P A 505	
Laundromat, commercial laundry		P A	
Library		P A	
Liquor store		P A	
Meeting room facility other than those listed		P A	
Museum (other than art or historical)		P A	
Nursery or greenhouse (commercial)	A	P A	P A
Office (business or professional, but not medical or dental)		P A	
Office (medical or dental)		P A	
Park, playground or other non-commercial recreational facility	P A	P A	
Parking lot	P A	P A	
Pet shop		P A	
Pharmacy or drug store		P A	
Photography studio		P A	
Place of worship	P A	P A	
Printing and/ or publishing facility		P A	
Public utility structure (does not include cell sites or switching offices)	P A	P A	
Repair shop (for common household appliances such as radios, televisions, and vacuum cleaners)		P A	

Residential dwellings within a commercial building		A	
Residential house or building containing no more than one dwelling	P	P	P
Residential house or building containing more than one dwelling	A	P	
Residential house or building containing more than one dwelling in which all dwellings are exclusively for the elderly		P A	
Restaurant (sit down) including restaurants with bars		P A	
Restaurant (fast food)		P A	
Sales event (temporary)		T Article 4	
Saw Mill		P	
School (for dance, music, crafts, martial arts or the fine arts)		P A	
School, public or private (elementary)	P A	P A	
School, public or private (junior high)	P A	P A	
School, public or private (high school or vo-tech school)	P A	P A	
School (trade school)		P A	
Sexually oriented business		CU	
Shopping center, shopping mall, department store or retail store not listed in this table		P A	
Signs	A Article 6	A Article 6	
Special event, festival, fair, exhibit, or show sponsored by a non-profit organization	T Article 4	T Article 4	T Article 4
Special event, festival, fair, exhibit or show that is not in the above category	T Article 4	T Article 4	T Article 4
Swimming pool (private residential)	A	A	A
Travel agency		P A	
Veterinary office, animal clinic, or animal hospital		P	
Winery	P A	P A	
Yard decorations, gazebos	A	A	A

SECTION 270: Setbacks, height regulations and lot requirements

A. The purposes, organization and applicability of this section: The function of this section is to provide district-specific (1) minimum setback restrictions for structures (2) maximum setback restrictions for structures, (3) maximum height regulations for structures, (4) minimum area requirements for lots, and (5) minimum frontage requirements for lots. The main body of this section’s regulations can be found in the table

under Letter C. The various regulations discussed above form this table’s row, and Benezette’s four zoning districts from the table’s columns. Exceptions to the regulations shown in this table are listed under Letter B. Note that the exact definitions of the terms and regulations used in this section can be found in Article 8, Terminology.

Because the regulations of this section apply to each of Benezette’s zoning districts, they apply to every building, structure, and lot in the Township, except those noted under Letter B below.

B. Exceptions to the Regulations of this section:

1. Building and structure projections may exceed the height limits of their district if they are one of the following items.

a. a chimney or smokestack;

b. a public or commercial communications tower that contains public or commercial communications equipment and is mounted on the ground. However, commercial communications equipment that rises from the roof of a building shall not be exempted from the height requirements of its district;

c. An integral part of a commercial or industrial process whose height is necessary in order for the process to work (e.g. a grain elevator); or

d. A steeple, cupola, spire, belvedere, turret, or other similar architectural element that rises from the roof of a building, but does not include a dwelling.

2. Fences, walls and other screens may ignore this section’s setback requirements but must follow the requirements of Section 510 Fences, Walls and Other Screens.

3. Signs may ignore this section’s setback requirements, but must follow the requirements of Article 6, ‘Signs.’

B. The Setback, height regulation, and lot requirement table:

1. All lots, buildings and structures, except those noted under Letter B above, shall follow the regulations in the following table.

<u>Regulation</u>	<u>R</u>	<u>C</u>	<u>AG</u>
Maximum height for permitted principal uses	35 ft.	35 ft.	
Maximum height for permitted accessory uses	15 ft.	30 ft.	
Minimum lot area for lots that do not contain a gas station	4,000 sq. ft.	2,500 sq. ft.	

Minimum lot area for lots that contain a gas station		12,500 sq. ft.	
Minimum lot frontage	30 ft.	40 ft.	

2. Where a structure is proposed to be built on a lot which is situated among lots existing principal structures have maintained a front, side or rear yard setback, then the respective front, side or rear yard(s) of the proposed structure shall be the average of the front, side or rear yard(s), as appropriate, of the abutting structures. However, no side yard shall be reduced to less than 5 feet and no rear yard to less than 10 feet.

ARTICLE III

SPECIAL EXCEPTIONS AND CONDITIONAL USES

SECTION 300: The purposes, organization and applicability of Article 3

Both a "special exception" and a "conditional use" are permissions granted to an applicant to use land in a zoning district for a purpose or land use that is not permitted outright (i.e., that is not a permitted principal or accessory use) in that district. Special exceptions and conditional uses are utilized by this ordinance because merely allowing and not allowing land uses is too narrow for sound planning in some zoning districts. Some land uses fall in between what is consistent and what is not consistent with a district's planned way of life. Furthermore, some uses should be located in a district, but should be very carefully sited or controlled in order to protect the district's overall quality of life. Establishing a special exception/conditional use system for Benetzette that allows such land uses in appropriate zoning districts, subject to location and operation standards that are to protect the quality of life in those districts, is the general purpose of Article 3.

The major difference between special exceptions and conditional uses is that the former are granted or denied by the Zoning Hearing Board, while the latter are granted or denied by the Board of Township Supervisors. Land uses that are allowed as special exceptions generally affect only their particular neighborhoods, while land uses that are allowed as conditional uses may affect the entire Township - and thus, should be under the jurisdiction of the Township's primary elected officials (i.e., the Board of Township Supervisors). The multi-page table under letter "D" of Section 265 ('Land Uses') and other parts of this ordinance state which land uses are allowed in which zoning districts as special exceptions, and which land uses are allowed in which zoning districts as conditional uses.

It is important to note that special exceptions and conditional uses are not deviations from this ordinance, or its purposes listed in Section 112 ('The General Purposes of This Ordinance'). These uses are both envisioned by this ordinance and - if the location and operation standards prescribed by this article are followed - permitted by this ordinance.

The procedure that an applicant is to use in obtaining a special exception or a conditional use is provided in Section 305, 'The Procedure for Obtaining a Special Exception or a Conditional Use.' The standards that the Zoning Hearing Board or the Board of Township Supervisors (as the case may be) is to use in determining whether or not a special exception or conditional use (as the case may be) should be granted to the applicant are provided in Section 310, 'The Standards that are to be Used to Grant a Special Exception or a Conditional Use.' This article and its regulations only apply to land uses that are proposed to be established in a zoning district where those uses are allowed only as special exceptions or conditional uses by Section 265 or other parts of this ordinance.

SECTION 305: The procedure for obtaining a special exception or a conditional use

All applications for special exceptions and conditional uses shall be made according to the following rules:

A. Who May Apply: Any landowner or tenant with the written permission of his or her landowner may apply for a special exception or conditional use

B. The Land Uses that may be permitted through a special exception or a conditional use: The only land uses that may be permitted through a special exception or a conditional use are those that are expressly permitted as special exceptions or conditional uses for the involved zoning district by Section 265 or other parts of this ordinance.

C. Applying to the Zoning Officer: Any one of the aforementioned parties who wishes to establish a land use that is permitted in the involved zoning district as a special exception, or a conditional use shall file an application with the Zoning Officer on a form supplied by the Township. This application shall not be considered complete unless enough information is included on the form to enable the Zoning Hearing Board or the Board of Township Supervisors (as the case may be) to determine if the proposed land use meets the standards given for that use under Section 310. Upon receiving a complete application as determined by the Zoning Officer, the Zoning Officer shall forward it to the Zoning Hearing Board if the application is for a special exception, or to Board of Township Supervisors if the application is for a conditional use.

D. The Procedure that the Zoning Hearing Board is to use in deciding on a special exception application: The procedure that the Zoning Hearing Board is to use in deciding whether or not to grant a special exception is given in Section 705, Letter H.

E. The procedure that Board of Township Supervisors is to use in deciding on a conditional use application: The procedure that Board of Township Supervisors is to use in deciding whether or not to grant a conditional use is given in Section 710, Letter B Number 3.

F. Burdens of Proof: In both special exception hearings and conditional use hearings, the burden of proof shall be on the applicant to prove that his or her proposed use meets the standards prescribed for it by Section 310.

G. Conditions: In granting a special exception or a conditional use, the Zoning Hearing Board or the Board of Township Supervisors (as the case may be) may attach reasonable conditions and safeguards (in addition to those prescribed by Section 310) as it may deem necessary to implement the purposes of this ordinance (see Section 112). Such conditions shall run with the land and shall not be tied solely to a particular property owner. If a condition is violated subsequent to the grant of a special exception or a conditional use, it shall be enforced according to the provisions of Section 160.

H. Appealing the Decision of the Zoning Hearing Board or the Board of Township Supervisors. The decision of the Zoning Hearing Board regarding a special exception application, or the decision of the Board of Township Supervisors regarding a conditional use application may be appealed to the Elk County Court of Common Pleas.

I. Zoning and Occupancy Permits: Zoning and occupancy permits shall be required for each approved special exception or conditional use. Section 148 and Section 151 explain how and when to get these permits.

SECTION 310: The standards that are to be used to grant a special exception or a conditional use

A. The Purpose and Organization of this section: The purpose of this section is to provide standards that the Zoning Hearing Board is to use in deciding whether or not to grant a special exception use, or that the Board of Township Supervisors is to use in deciding whether or not to grant a conditional use. Each land use or activity that is permitted as a special exception or a conditional use in one or more zoning districts by Section 265 or another part of this ordinance is listed in alphabetical order under Letter B below. Each application made under Section 305 must meet the standards given under the listing of the involved land use or activity in order to obtain a special exception or a conditional use. Note that both the standards for land uses that this ordinance permits as conditional uses are provided in the same list.

B. General Standards and Criteria: Before approving a special exception application the Zoning Hearing Board shall determine that the proposed use will not alter the established character and use of the neighborhood or district in which it is located and that it will not substantially impair the use or development of adjacent properties. The following general standards, among other things, shall be used in the evaluation. These standards shall be in addition to any other applicable requirements in this ordinance.

1. The proposed use complies with all applicable provisions and requirements for that type of use contained in this ordinance, unless a variance to any provision has been granted by the Zoning Hearing Board, and with other applicable local County and Commonwealth ordinances, laws and regulations.
2. The proposed use is compatible with the surrounding land uses, and it will not have a negative impact on the existing neighborhood or development in terms of air and water quality, noise, potential hazards, illumination and glare, and restrictions to natural light and circulation.
3. The site for the proposed use is suitable in terms of size, topography, soil conditions and similar physical features.
4. The proposed use and site provides for safe, adequate vehicular and pedestrian access. It has access from a street capable of handling the traffic generated by the proposed use, and it will not result in undue traffic congestion and hazardous

conditions on adjacent streets. The use provides for safe, efficient internal circulation and sufficient off-street parking and loading.

5. The proposed use complies with all applicable standards and requirements for sanitary sewage disposal, water supply, storm water management, solid and toxic waste storage and disposal.

6. The proposed use provides screening and / or buffer areas as required by this ordinance.

7. The proposed use / development conforms to the scale, character and exterior appearance of existing structures and uses in neighborhoods in which it is located.

C. Standards and criteria for specific uses: For the uses identified in this section, the Board of Township Supervisors or the Zoning Hearing Board, as appropriate, shall also determine that the proposed use complies with these standards, in addition to other applicable requirements in this ordinance.

1. Bed and Breakfast Establishments: A bed and breakfast establishment may be permitted in all districts as a special exception only if the proposed establishment meets the conditions below. In approving such an establishment, the Zoning Hearing Board may set limits such as the following on the number of guests who may stay there at any one time in order to minimize negative impacts on adjacent properties.

a. the proposed establishment will follow all provisions of this ordinance.

b. the owner/operator of the proposed establishment will live on the premises.

c. the proposed establishment will not substantially impair, alter, or detract from the value, use, or enjoyment of surround properties via fumes, odors, vibrations, glare, electrical interference, radio or television signal interference, voltage fluctuations, smoke, noise, or other noxious offensive or hazardous elements.

d. the proposed establishment will not impair the access, sight lines or safety of any public roadway or driveway, private roadway or driveway, pedestrian walk or parking area.

e. the proposed establishment will not require an uneconomical, inefficient, or illogical extension of public utilities and services.

f. the proposed establishment will provide food service only for its residents and guests.

g. refuse from the proposed establishment will be stored in a location that is as undetectable as possible from neighboring lots and will be removed for disposal regularly.

2. Fences, walls, and other screens may be permitted in any district except that fences, walls and other screens that include barbs, thorns, electric wires designed to shock, or other harmful components are not permitted R or C zones.

3. Major impact home occupations: A major impact home occupation (see Section 505, 'Home Occupations') may be permitted in all districts as a special exception only if it meets the conditions given below. If the Zoning Hearing Board decides to grant a special exception to such a business, the Board shall set a required number of off-street parking spaces and a required number of off-street loading berths for the occupation (beyond the requirements of the involved home). These required numbers shall be based on a case-by-case analysis of the home occupation's parking and loading needs.

A major impact home occupation may be permitted as a special exception only if:

a. there will be no evidence of the home occupation's existence on the exterior of its building except for a sign that meets the requirements of Article 6 ('Signs');

b. the area devoted to the home occupation will not exceed 25% of the involved residential unit's total gross floor area;

c. no exterior displays of goods or interior displays of goods that are visible from the outside of the involved residence will be utilized;

d. no equipment or materials shall be operated or stored outside of the involved dwelling unit - except inside of an enclosed structure that complies with the requirements of this ordinance;

e. no equipment or process will be used in the home occupation that creates noise, vibration, glare, fumes, odors or electrical interference detectable to normal senses in other residential units; and

f. no land use that is listed in the multi-page table at Section 265 ('Land Uses'), letter "D," shall be operated as a home occupation.

4. SEXUALLY ORIENTED BUSINESSES: Adult arcades, adult bookstores, adult video stores, adult cabarets, adult motels, adult motion picture theaters, adult theaters, escort agencies, nude model studios, sexual encounter centers, and other businesses classified as sexually oriented businesses by this ordinance may be permitted in the I District as special exceptions only if they meet the conditions below. Note that the provisions of this sub-section do not apply to modeling classes

operated by (1) a proprietary school licensed by the Commonwealth of Pennsylvania; (2) a college, junior college, or university supported entirely or partly by taxation; or (3) a private college or university that maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation. Furthermore, the provisions of this sub-section do not apply to structures that (1) have no signs visible from the exterior of the structure and no other advertising that indicates a nude person is available for viewing; and (2) contain a class where students must enroll at least 3 days in advance, and where no more than 1 nude model is on the premises at any one time.

For the purposes of letter "a" below, measurements shall be made in a straight line - without regard to intervening structures or objects - from the nearest portion of a building or structure used as a part of a premises where a sexually oriented business is conducted to the nearest property line of a premises of a church; public or private pre-elementary, elementary, or secondary school; public library; child care facility; child-oriented business; nursery school; or affected public park. For the purposes of letter "b" below, measurements shall be made in a straight line - without regard to intervening structures or objects - from the closest exterior wall of the structure in which each sexually oriented business is located.

A sexually oriented business that is legally operating (1) on the effective date of this ordinance's enactment (see Section 118, 'The Effective Date of This Ordinance's Enactment'), and (2) in violation of letters "a" or "b" below shall be deemed a nonconforming use (see Section 154, "Nonconformities"). However, no sexually oriented business shall be deemed a nonconforming use due to the subsequent location of a church; public or private pre-elementary, elementary, or secondary school; public library; childcare facility; child-oriented business; nursery school; or public park within 1,000 feet of that business.

Sexually oriented businesses may be permitted as special exceptions only if:

- a. the proposed business will not be located within 1,000 feet of a church; a public or private pre-elementary, elementary, or secondary school; a public library; a child care facility or nursery school; a public park adjacent to any residential district; or a child-oriented business;
- b. the proposed business will not be located within 1,000 feet of another sexually oriented business;
- c. the proposed business will follow all provisions of this ordinance, including all parking and buffering requirements;
- d. the proposed business will not substantially impair, alter, or detract from the value, use, or enjoyment of surrounding properties via fumes, odors, vibrations, glare, electrical interference, radio or television signal

interference, voltage fluctuations, smoke, noise, or other noxious, offensive, or hazardous elements;

e. the proposed business will not congest the Township's streets or highways;

f. the proposed business will not impair the access, sight lines, or safety of any public roadway or driveway, private roadway or driveway, pedestrian walk, or parking area;

g. the proposed business will provide for safe automobile access that, where possible, minimizes the total number of access points on the involved street or highway and provides ample storage space on driveways for vehicles leaving the premises;

h. the proposed business will not require an uneconomical, inefficient, or illogical extension of public utilities and services;

i. the exterior areas of the proposed business will be adequately lighted;

j. the proposed business will not open before 10:00 AM and will not stay open later than 10:00 PM; and

k. refuse from the proposed business will be stored ma location that is as undetectable as possible from neighboring lots and will be removed for disposal regularly.

5. DAY CARE FACILITY

a. All day care centers must be licensed by the PA Department of Public Welfare and must operate in accordance with the requirements of the Department. This requirement is a condition of occupancy.

b. Any outdoor recreational areas on the property shall be no closer than 25 feet to an abutting street or 10 feet to any property lines. They shall be fenced with a self-latching gate or otherwise secured and landscaped as required by the Governing Body.

c. Safe vehicular access and off-street areas for discharging and picking up children or adults shall be provided.

d. One parking space shall be provided for each staff member plus one for each six children or adults cared for at the center. Parking areas for four or more vehicles shall be screened in accordance with Section 5-508 (buffer yards) when abutting a residential use or district.

6. Campground

- a. All campgrounds must meet all criteria and requirements provided in the Benezette Campground Ordinance.

7. Cell Tower

- a. All campgrounds must meet all criteria and requirements provided in the Benezette Campground Ordinance.

8. Contractor's yard

Reserved.

9. Gun range

Reserved.

10. Rental units in Agricultural Zone

Reserved.

ARTICLE IV

TEMPORARY USES

SECTION 400: THE PURPOSES, ORGANIZATION, AND APPLICABILITY OF ARTICLE 4

Section 265 ('Land Uses') specifies that some land uses may be established in certain zoning districts as "temporary uses." This means that these uses may be operated in these districts (1) only for a limited period of time, and (2) only if they are approved by Board of Township Supervisors. These uses are typically a worthwhile or even vital part of modern community life. However, the drastic effects that they can sometimes have on their neighborhoods necessitates their having a limited lifespan and being under the jurisdiction of the Board of Township Supervisors. Establishing such a temporary use system for Benezette Township is the general purpose of Article 4.

It is important to note that temporary uses - like special exceptions and conditional uses - are not deviations from this ordinance or its purposes listed in Section 112 ('The General Purposes of This Ordinance'). These uses are both envisioned by this ordinance and - if the provisions of this article are followed - permitted by this ordinance.

The procedure that an applicant is to use to obtain a temporary use is spelled out in Section 405 ('The Procedure for Obtaining a Temporary Use'). The standards that the Board of Township Supervisors is to use in determining (1) whether a temporary use should be granted to an applicant, and (2) how long the temporary use should be allowed to exist are provided in Section 410 ('The Standards that are to be Used to Grant a Temporary Use'). This article only applies to land uses that are proposed to be established in a zoning district where they are allowed as temporary uses by Section 265, 'Land Uses.'

SECTION 405: THE PROCEDURE FOR OBTAINING A TEMPORARY USE

All applications for temporary uses shall be made according to the following rules

A. Who May Apply: Any landowner or tenant with the written permission of his or her landowner may apply for a temporary use.

B. The Land Uses that may be permitted through a Temporary Use: The only land uses that may be permitted through a temporary use are those that are expressly permitted as temporary uses in the involved zoning district by Section 265, 'Land Uses.'

C. Applying to the Zoning Officer: Any one of the aforementioned parties who wishes to establish a temporary use shall file an application with the Zoning Officer on a form supplied by the Township. This application shall state the period of time during which the applicant wishes to operate the proposed use and shall not be considered complete unless enough information is included on the form to enable Board of Township Supervisors to determine if the proposed use meets the standards of Section 410. Upon receiving a

complete application as determined by the Zoning Officer, the Zoning Officer shall forward it to Board of Township Supervisors.

D. The Procedure that Board of Township Supervisors is to Use in Deciding on a Temporary Use' Application: The procedure that Board of Township Supervisors is to use in deciding whether to grant a temporary use is given in Section 710, "The Board of Township Supervisors, " letter "B," number "2.

E. Burdens of Proof: In temporary use hearings, the burden of proof shall be on the applicant to prove that his or her proposed use meets the standards prescribed for it by Section 410, 'The Standards that are to be Used to Grant a Temporary Use.'

F. Appealing the Decision of the Board of Township Supervisors: The decision of the Board of Township Supervisors regarding a temporary use application may be appealed to the Elk County Court of Common Pleas.

G. Occupancy Permits: An applicant who successfully applies for a temporary use must also obtain an occupancy permit for that use after all development activities on the involved site are completed. Section 151, 'Occupancy Permits,' explains how to obtain such a permit.

H. Violations: If a party that receives a temporary use subsequently violates the standards under which that use was granted, those standards shall be enforced according to the provisions of Section 160, 'Enforcement.'

SECTION 410: THE STANDARDS THAT ARE TO BE USED TO GRANT A TEMPORARY USE

A. The Purpose and Organization of this Section: The purpose of this section is to provide standards that the Board of Township Supervisors is to use in (1) deciding whether to grant a temporary use, and (2) determining how long an approved temporary use should be allowed to exist. The former set of standards are listed under letter "B" below, while the latter set are listed under Letter C. Each land use or activity that is permitted as a temporary use in one or more zoning districts by Section 265 is listed in alphabetical order below.

<u>TEMPORARY USES</u>	<u>ZONING DISTRICTS IN WHICH THEY ARE PERMITTED</u>
Food Truck	All zoning districts
Sales event (temporary)	All zoning districts
Special event, festival, fair, exhibit or show sponsored by a non-profit organization	All zoning districts
Special event, festival, fair, exhibit or show that is not in the above category	All zoning districts

B. The Standards that the Board of Township Supervisors is to Use in Granting a Temporary Use:

The Board of Township Supervisors shall grant a Temporary Use if the applicant:

1. provides proof that the proposed use will have adequate off parking;
2. has obtained all licenses and permits on the proposed use's behalf that governmental agencies may require for the selling or handling of food or other products;
3. provides the Board of Township Supervisors with a letter from the owner of the land on which the proposed use will occur that approves the use (if the applicant does not own the land himself); and
4. provides the Board of Township Supervisors with a letter stating that he or she will assume responsibility for any on-site activities that are directly related to the proposed temporary use.

C. The Standards that the Board of Township Supervisors is to Use in Determining How Long a Temporary Use should be allowed to Exist: If an application for a temporary use is approved, the Board of Township Supervisors shall determine the dates between which the use will be permitted to operate. In making this determination, the Board of Township Supervisors shall weigh the temporary use's benefit to the community against any burdens that it may cause its neighbors. However, the Board of Township Supervisors shall not allow a single land use to have temporary sales events for more than 30 days in any calendar year.

ARTICLE V

SUPPLEMENTAL REGULATIONS

SECTION 500: THE GENERAL PURPOSE AND APPLICABILITY OF THIS ARTICLE

There are sets of regulations in this ordinance that apply to land uses, lots, and/or structures that can be located in several of Benezette's zoning districts. Some of these regulations are given just once - in this article. This is a simpler and shorter way of providing these regulations than repeating them once in each applicable zoning district's provisions (zoning district provisions constitute Article 2). Thus, each section of this article is applicable to a particular land use, lot, or structure in a particular zoning district only if Article 2 says so.

SECTION 505: HOME OCCUPATIONS

A. The Purposes, Organization, and Applicability of this Section: A home occupation is defined as a business that is conducted (1) entirely within a dwelling unit; (2) entirely by the members of the household residing in that unit; and (3) in a manner that is clearly incidental, accessory, and subordinate to the unit's primary residential use. Most modern zoning ordinances regulate home occupations because of the deleterious effects that these businesses can have on their neighborhoods: a home occupation can congest its neighborhood's parking spaces and streets; generate intrusive amounts of noise, vibration, glare, electrical interference, odors, and radio/television signal disruption; draw large trucks for delivery purposes; erect a disturbing number of signs; utilize unsightly outdoor storage areas; and generally change the character of its neighborhood from residential to commercial. Many zoning ordinances attempt to minimize such damaging effects by designating all home occupations as special exceptions and requiring each to procure the approval of the Zoning Hearing Board - which is to reject any such business that will adversely affect its neighborhood.

However, more and more home occupations are being created that have little or no deleterious effects on their neighborhoods. Many professionals now "telecommute" from home, draw no extra parking or traffic activity, generate no noise or other interference, and have no signs. While home occupations that could have a significant effect on their neighborhoods clearly should still lie under the Zoning Hearing Board's jurisdiction, those that have little or no such effects should be excused from the paperwork, time, and expense involved in a special exception application.

This ordinance attempts to establish such a system by dividing home occupations into two categories: minor impact home occupations (which will have little or no effect on their neighborhoods) and major impact home occupations (which may have some effects on their neighborhoods). The Zoning Officer shall determine which of these categories a particular home occupation falls into according to the standards of Letter "B" below. If a particular home occupation is determined to be a minor impact home occupation according to these standards, then it may be established without any further approvals. However, if it is determined to be a major impact home occupation, then letter "C" below requires that

it must be approved by the Zoning Hearing Board as a special exception according to the rules of Article 3, 'Special Exceptions and Conditional Uses.'

This section applies to all home occupations within Benezette regardless of the zoning district in which they are located.

B. Distinguishing Minor impact Home Occupations from Major Impact Home Occupations:

1. Any person who wishes to establish a home occupation within the Township shall file an application for a home occupation with the Zoning Officer on a form supplied by the Township. This application shall not be considered complete unless enough information is included on the form to enable the Zoning Officer to determine whether the proposed home occupation is a minor impact home occupation or a major impact home occupation according to the standards below.
2. After a complete application has been filed as determined by the Zoning Officer, the Zoning Officer shall have 15 days to determine the status of the proposed home occupation. When the Zoning Officer fails to make this determination within 15 days, then the proposed home occupation shall automatically be classified as a minor impact home occupation.
3. The Zoning Officer shall determine that a proposed home occupation would be a major impact home occupation unless it meets the standards below – in which case it shall be classified as a minor impact home occupation and may be established without any further approvals.
 - a. A minor impact home occupation shall receive and ship any goods, chattels, materials, supplies, or items of any kind exclusively in either (1) a passenger vehicle that is owned by the resident, or (2) a parcel courier vehicle that stops at the dwelling unit no more than once per day.
 - b. It shall use no equipment or appliances other than those that are customarily used in common residences or offices.
 - c. If it is a tutoring or teaching service, then no more than four students shall be tutored or taught at the involved dwelling at any one moment.
 - d. A minor impact home occupation shall place no sign or other evidence of that occupation on the exterior of its building.
 - e. A minor impact home occupation shall use no more than twenty-five percent of the total gross floor area of the involved dwelling unit (excluding garages).

f. A minor impact home occupation shall have no exterior displays of goods and no interior displays of goods which can be seen from public right-of-ways.

g. A minor impact home occupation shall neither operate nor store any equipment or materials outside of the involved dwelling unit - except inside of an enclosed structure that complies with the requirements of this ordinance.

h. A minor impact home occupation shall create a volume of traffic and a demand for parking spaces that is no greater than would normally be expected in its neighborhood of Benezette.

i. A minor impact home occupation shall use no pieces of equipment or processes that create noise, vibration, glare, fumes, odors, visual or audio television or radio signal interference, or electrical interference which is detectable to normal senses in other residential units.

j. No land use that is listed in the multi-page table at Section 265 ('Land Uses'), letter "I," shall be operated as a home occupation.

4. The Zoning Officer's determination on the matter, along with any materials that support this determination, shall be mailed to the applicant personally no later than the day after the determination is made.

5. The Zoning Officer's determination on this matter may be appealed to either the Zoning Hearing Board or the relevant Court of Common Pleas.

C. Major Impact Home Occupations: If a proposed home occupation is determined to be a major impact home occupation by the Zoning Officer, then its proprietor must apply for a special exception use before the Zoning Hearing Board according to the provisions of Article 3. Note that any off-street parking space or loading berth requirements for these occupations (beyond the requirements of the involved dwelling unit) shall be set by the Zoning Hearing Board at the involved hearing.

SECTION 510: Fences, walls and other screens

1. A fence, wall, or screen shall not be erected in a public or dedicated right-of way.

2. No fences, walls, or screens - except for a two strand wire fence shall be constructed in the Township's floodplain, as defined by the relevant Township ordinances.

3. A fence, wall, or screen shall not block the clear sight distance at street sections or driveways.
4. A fence, wall, or screen shall not include barbs, thorns, other harmful projections, or electric wires designed to shock unless it is approved by the Zoning Hearing Board as a special exception under the standards of Article 3, 'Special Exceptions and Conditional Use's.'
5. The finished side of fences, walls, or screens shall always face any abutting streets or properties.
6. Fences, walls, and screens shall be appropriate to the character and architectural concepts of their surroundings.
7. Fences, walls, and screens shall not hinder the appropriate development, use, or value of buildings on adjacent lots.

D. Zoning permits: A fence, wall or screen shall require a zoning permit, as described in Section 148.

SECTION 520: Required Buffers

A. Section Purpose: Throughout this ordinance, some land uses are required to be "buffered" against other lots. This is required so that the unpleasant qualities of the one use shall not damage the character or value of the other. This section provides the specific details of this required buffering.

B. The Zoning Officer's Role: At the time that a developer who intends to construct a use that this ordinance requires to be buffered applies for a zoning permit, the Zoning Officer of Benzetette Township shall determine (1) if the developer intends to install a living fence or a non-living fence (options I and 2 of Subsection "C" below).

At the same time, the Zoning Officer shall determine (1) if the developer intends to install a natural landscape buffer (option 3 of Subsection "C" below), and (2) if the developer's proposed buffer is not long enough or not wide enough to protect the value of the adjacent properties. The Zoning Officer determines that the answer to both of these questions is "yes," then he or she shall have the authority to require an increase in the size of the natural landscape buffer area.

C. Buffer/Screen Options: Required buffers shall be in one of the following three forms.

1. A living fence that adheres to the requirements of Subsection "D" of this section.
2. A non-living fence, wall, or screen that adheres to the requirements of Subsection "E" of this section.

3. A natural landscape that is sufficiently wide or hilly enough to hide the principal use of the lot that is required to be screened, and that adheres to the requirements of Subsection "F" of this section.

D. Provisions for Required Living Fences

1. Required living fences shall provide a year-round screen. In order to ensure that this requirement will be met, living fences shall be composed of a mix of plants that is at least 75% evergreen.

2. Required living fences shall be in accordance with all of the provisions of Section 510 of this ordinance ("Fences, Walls, and Other Screens"), except that they may be subject to the provisions of Subsection "B" of this Section.

3. Required living fences shall be either no less than 4 feet wide or no less than the width necessary to be opaque, whichever is more.

4. Required living fences shall be maintained so that they (1) follow the requirements of this section, and (2) continue to provide the required level of screening.

5. All plantings should be situated so that their root systems shall not encroach on underground utilities.

6. The owner of the property whose principal use is required to be screened shall be responsible for the installation and upkeep of his or her living fence. This includes the replacement of dead plant material and the removal of all debris and tall grass.

E. Provisions for Required Non-Living Fences

1. Required non-living fences shall be maintained so that they (1) follow these requirements, and (2) provide a year-round, attractive screen. The owner of the property whose principal use is required to be buffered shall be responsible for the installation and upkeep of his or her fence.

2. Required non-living fences shall be in accordance with the provisions of Section 510 of this ordinance ("Fences, Walls, and Other Screens"), except that (1) they shall ignore the required "maximum solid to open portion ratio," and (2) they may be subject to the provisions of Subsection "B" of this Section.

3. Required non-living fences shall be opaque.

F. Provisions for Natural Landscape Buffers:

1. Required natural landscape buffers shall be wide and long enough to hide the use that is required to buffer itself.
2. Required natural landscape buffers shall be delineated and protected from future development by an easement, deed restriction, covenant, or similar restriction.
3. No structure, parking area, loading area, storage area, or vehicular circulation area shall be located in this buffer area.
4. All portions of a landscape buffer shall be attractive and maintained in good condition.

SECTION 530: OFF-STREET PARKING SPACE AND LOADING BERTH DESIGN

Deleted.

SECTION 535: OFF-STREET PARKING AND LOADING PLANS

Deleted.

SECTION 540: PRIVATE SWIMMING POOLS

Swimming pools are subject to applicable township and state building code regulations and enforcement by the Township's Building Code Official.

SECTION 550: MANUFACTURED/MOBILE HOME REQUIREMENTS

Manufactured and Mobile Homes are subject to applicable township and state building code regulations and enforcement by the Township's Building Code Official.

ARTICLE VI

SIGNS

SECTION 600: THE PURPOSES, ORGANIZATION, AND APPLICABILITY OF THIS ARTICLE

The purposes of this article are the following: to encourage the effective use of signs as a means of communication in Benezette Township, to maintain and enhance the Township's aesthetic environment and its ability to attract sources of economic development and growth, to improve pedestrian and traffic safety, to minimize the possible adverse effect of signs on nearby public and private property, and to enable the fair and consistent enforcement of this article's provisions.

Section 605, 'Computations,' explains how to calculate sign areas, sign heights, and maximum total permitted sign areas for lots. These items are used throughout this article, and thus, Section 605 applies to all regulated signs. Section 610, 'Signs Allowed on Private Property With and Without Permits,' addresses and exclusively applies to regulated signs on private property: stating what kinds of signs are allowed in each zoning district, when zoning and occupancy permits are needed for a sign, how much total permitted sign area each lot may have, how many individual signs each lot may have, what dimensions each sign may be, where each sign may be located on its lot, and what characteristics each sign may have.

Section 615, 'Design, Construction, and Maintenance,' sets design, construction, and maintenance requirements for all regulated signs. Section 620, 'Signs in the Public Right-of- Way' addresses and exclusively applies to regulated signs in public right-of-ways: stating what kinds of signs are allowed there, when signs may be forfeited to the Township, and when occupancy permits are required for signs in this location. Section 625, 'Signs that are Exempt from the Requirements of this Article,' lists which signs are not regulated by this article. Section 630, 'Prohibited Signs,' explains what kind of signs are prohibited from the Township. Section 635, 'Occupancy Permits for Temporary Signs on Private Property,' provides some rules for temporary signs on private property that Section 610 requires to have occupancy permits. Section 640, 'Abandoned Signs' explains when abandoned signs must be removed.

A nonconforming sign is defined as a sign that (1) was legally established before the effective date of this ordinance's enactment (see Section 118, 'The Effective Date of This Ordinance's Enactment'), and (2) does not conform the requirements of Section 605 ('Computations'), Section 610 ('Signs Allowed on Private Property With and Without Permits'), Section 620 ('Signs in the Public Right-of-Way'), or Section 630 ('Prohibited Signs'). Section 645, 'Nonconformities,' addresses and exclusively applies to nonconforming signs: explaining how they are to receive nonconforming status, how they are to be maintained, how they are to be brought into conformance, and when they must be removed.

Article 6 applies to all signs located in Benezette Township.

SECTION 605: COMPUTATIONS

A. How to Compute the Sign Area of Individual Signs: The area of a sign face (which is also the sign area of a wall sign or other sign with only one face) shall be computed by means of the smallest square, circle, rectangle, triangle, or combination thereof that will encompass the extreme limits of the writing, representation, emblem, or other display, together with any material or color forming an integral part of the background of the display or used to differentiate the sign from the backdrop or structure against which it is placed, but not including any supporting framework, bracing, or decorative fence or wall when such fence or wall otherwise meets the provisions of this ordinance and is clearly incidental to the display itself.

B. How to Compute the Sign Area of Multi-faced Signs: The sign area for a sign with more than one face shall be computed by adding together the area of all sign faces visible from any one point. 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 42 inches apart, the sign area shall be computed by the measurement of one of the faces.

C. How to Compute Sign Height: 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) existing grade prior to construction or (2) the newly established grade after construction, exclusive of any filling, beaming, 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 land at the principal entrance to the principal structure on the lot, whichever is lower.

D. How to Compute the Maximum Total Permitted Sign Area for a Lot: The permitted sum of the area of all individual signs on a lot shall be computed by applying the formula contained in Table "B" of Section 610 ('Signs Allowed on Private Property With and Without Permits') to the lot frontage, building frontage, or wall area, as appropriate, for the zoning district in which the lot is located. Lots fronting on two or more streets are allowed the permitted sign area for each street frontage. However, the total sign area that is oriented toward a particular street may not exceed the portion of the lot's total sign area allocation that is derived from the lot, building, or wall area frontage on that street.

SECTION 610: SIGNS ALLOWED ON PRIVATE PROPERTY WITH AND WITHOUT PERMITS

Signs are allowed on private property in Benezette Township in accordance with, and only in accordance with, Table "A" below. If the letter "P" appears for a sign type in a column of this table, such a sign is allowed on private property in the zoning district represented by that column without any of the permits mentioned in the paragraph below. If the letter "S" appears for a sign type in a column of this table, such a sign is allowed on private property in the zoning district

represented by that column only after the permits required in the paragraph below have been obtained for the sign. If the letter "N" appears for a sign type in a column of this table, such a sign is not allowed on private property in the zoning district represented by that column.

If Table "A" requires a sign of the "temporary" sign type to have permits in a particular zoning district, an occupancy -permit must be obtained for that sign before it may be erected. If Table "A" requires a sign of any other sign type to have permits in a particular district, a zoning permit must be obtained for that sign before it may be erected, and an occupancy permit must be obtained for that sign immediately after it is erected. Section 148 ('Zoning Permits') explains how to obtain a zoning permit, while Section 151 ('Occupancy Permits') explains how to get an occupancy permit.

Any sign designated by an S or P in Table A shall be allowed on private property only if:

A. The sum of the area of all building and freestanding signs on the lot conforms with the maximum permitted sign area as determined by the formula for the zoning district in which the lot is located as specified in Table B.

TABLE A: PERMITTED SIGNS ON PRIVATE PROPERTY

<u>Sign Type</u>	<u>R</u>	<u>C</u>	<u>AG</u>
FREESTANDING			
Residential ¹⁶	P	P	
Other	N	S	
Incidental ¹⁷	N	P	
BUILDING			
Banner	N	S	
Building Marker ¹⁸	P	P	
Canopy	N	S	
Identification ¹⁹	P	P	
Incidental ²⁰	N	P	
Marquee	N	S	
Projecting	N	S	
Residential ²¹	P	P	
Roof	N	S	
Roof, Integral	N	S	
Suspended	N	P	
Temporary ²²	N	S	
Wall	N	S	
Window	P	P	
MISCELLANEOUS			
Banner ²³	N	S	
Flag ²⁴	P	P	
Portable	N	N	

16 No commercial messages are allowed on these signs except for a commercial message drawing attention to an activity legally offered on the premises

17 No commercial messages of any kind are allowed on these signs unless the involved message is not legible from any location off the involved lot

18 This may include only the building’s name, date of construction or historical data on a historic site. Such signs must be cut or etched into masonry, bronze or similar material

19 Only the address and name of the occupant is allowed on such a sign except in the case of decorative signs or flags (i.e. school flags, seasonal signs or ornaments, community spirit) which shall not be regulated.

20 No commercial messages are allowed on these signs if the message are legible from a location off of the involved lot

21 No commercial messages are allowed on such a sign except for one that draws attention to an activity legally offered on the premises

22 A temporary sign on private property may stand for no more than 30 days and must adhere to the requirements of Section 635. Note: Political signs must be taken down within five days after election. A temporary sign in a public right-of-way must have an occupancy permit, may stand for more than 60 days and must adhere to the requirements of Section 620

23 No commercial messages are allowed on banners if the messages are legible from a location off of the involved lot

24 This category includes the flags of the United States, the states themselves, local governments, foreign nations having diplomatic relations with the United States, institutions, businesses, and any other flag adopted or sanctioned by an elected legislative body of competent jurisdiction, provided that the involved flag shall not exceed 60 square feet in area and shall not be flown from a pole that is more than 40 feet tall. Any flag that does not meet these requirements shall be considered a banner sign by this ordinance.

TABLE B: MAXIMUM TOTAL SIGN AREA PER LOT

The maximum total area of all signs on a lot, except incidental signs, building marker signs, identification signs, and flags²⁵ shall not exceed the following

	<u>R</u>	<u>C</u>	<u>AG</u>
Total square ft.	<u>16</u>	<u>130</u>	

25 This category includes the flags of the United States, the states themselves, local governments, foreign nations having diplomatic relations with the United States, institutions, businesses, and any other flag adopted or sanctioned by an elected legislative body of competent jurisdiction, provided that the involved flag shall not exceed 60 square feet in area and shall not be flown from a pole that is more than 40 feet tall. Any flag that does not meet these requirements shall be considered a banner sign by this ordinance.

B. The size location and number of signs on the lot conform with the requirements of Table C and Table D below, which establish permitted sign dimensions by sign type.

TABLE C: NUMBER, DIMENSIONS AND LOCATIONS OF SIGNS

Individual signs shall not exceed the applicable maximum number, dimensions or setbacks shown on this table and on Table D

<u>Sign Type</u>	<u>R</u>	<u>C</u>	<u>AG</u>
Freestanding			
Area (in sq. ft.)	6	24 (40 if the sign is visible from the river)	

Height (in ft.)	5	7 (20 if the sign is visible from the river)	
Setback (in ft. from all lot lines ²⁶)	6	6	
Number permitted per lot per ft. of street frontage ²⁷	1 per 10	1 per 17	
Wall Signs			
Area (max sq. ft.)	2	NA	
Wall area (percent) ²⁸	NA	20%	

²⁶ In addition to the setback requirements of this table, no sign shall be located closer than 20 feet to an intersection between public and / or private roads and /or driveways unless that sign allows a clear view between the intersecting roads and / or driveways at all heights between 3 and 10 feet

²⁷ Lots fronting on two or more streets are allowed the permitted signage for each street frontage. However, this signage cannot be accumulated and used on one street in excess of that allowed for lot with only one street frontage

²⁸ The percentage figure here shall be interpreted as a maximum percentage of the area of the wall of which such a sign is a part or to which each sign is most nearly parallel

TABLE D: NUMBER AND DIMENSIONS OF CERTAIN INDIVIDUAL SIGNS BY SIGN TYPE

**No sign shall exceed the applicable maximum numbers or dimensions shown on this table.
No sign shall encroach on any applicable minimum clearances shown on this table.
Furthermore, no sign shall be placed vertically above a public street**

<u>Sign Type</u>	<u>R</u>	<u>C</u>	<u>AG</u>
Freestanding			
Residential, other and incidental	see Table C	See Table C	NA
Building			
Banner	NA	NA	9 ft.
Building Marker	1 per building	4 sq. ft.	NA
Canopy	1 per building	25% of the canopy's vertical surface	9 ft.
Identification	1 per building	NA	NA
Incidental	NA	NA	NA
Marquee	1 per building	NA	9 ft.
Projecting	1 per building	40 sq. ft.	9 ft.
Residential	See Table C	NA	NA
Roof	1 per principal building	NA	NA
Roof, integral	2 per principal building	NA	NA
Suspended	1 per entrance	6 sq. ft.	9 ft.

Temporary	See Section 35	NA	NA
Wall	NA	NA	NA
Window	NA	25% of the window's total area	NA
Miscellaneous			
Banner	NA	NA	9 ft.
Flag	NA	60 sq. ft.	9 ft.
Portable	1 where allowed	20 sq. ft.	NA

C. The size location and number of signs on the lot must conform with any additional limitations listed in Table A.

D. The characteristics of the sign must conform with the limitations of Table E and with any additional limitations listed in Table A

TABLE E: PERMITTED SIGN CHARACTERISTICS BY DISTRICT

In this table P signifies that the characteristic is allowed in the column's zoning district, while N signifies that the characteristic is not allowed

<u>Sign Type</u>	<u>R</u>	<u>C</u>	<u>AG</u>
Animation	N	N	P
Changeable Copy	N	P	P
Internal Illumination	N	N	P
External Illumination	N	P	P
Exposed Bulbs or Neon Illumination	N	N	P

SECTION 615: DESIGN, CONSTRUCTION, AND MAINTENANCE

Except for banners, flags, temporary signs, and window signs conforming in all respects with the requirements of this ordinance, all signs shall be constructed of permanent materials and shall be permanently attached to the ground, a building, or another structure by direct attachment to a rigid wall, frame, or other structural element. Furthermore, all signs shall be maintained in good structural condition, in compliance with all applicable building and electrical codes.

A sign that conforms with the requirements of Section 605 ('Computations'), Section 610 ('Signs Allowed on Private Property With and Without Permits'), Section 620 ('Signs in the Public Right-of-Way'), and Section 630 ('Prohibited Signs') maybe (1) repaired, (2) repainted, (3) removed for repair and then re-mounted, or (4) replaced with an identical sign without any permits. Note that this ordinance considers replacing a sign with a non-identical sign to be the same as erecting a new sign. Thus, such a replacement may or may not require a zoning and/or an occupancy permit, depending on the type and location of the involved sign.

SECTION 620: SIGNS IN THE PUBLIC RIGHT-OF-WAY

A. Sign Types Allowed in Public Right-of-Ways

1. The following kinds of permanent signs are allowed in public right-of-ways: (1) public signs erected by or on behalf of a governmental body to post legal notices, identify public property, convey public information, and/or direct or regulate pedestrian or vehicular traffic; (2) bus stop signs erected by a public transit company; (3) informational signs of a public utility regarding its poles, lines, pipes, or other facilities; and (4) awning, projecting, and suspended signs per a public right-of-way in conformity with the requirements of Table "A."
2. Temporary signs for which an occupancy permit has been issued according to the requirements of letter "C" below are allowed in public right-of-ways only if they contain no commercial messages and are no more than two square feet in area.
3. Emergency warning signs are allowed in public right-of-ways if they are erected by a governmental agency, a public utility company, or a contractor doing authorized or permitted work within the public right-of-way.

B. Forfeiture of Signs Located in Public Right-of-Ways: Any sign installed or placed on public property, except in conformance with the requirements of this article, shall be forfeited to the Township and subject to confiscation. The Township shall have the right to recover from the owner or person placing such a sign the full costs of removal and disposal of the sign.

C. Occupancy Permits for Temporary Signs in the Public Right-of-Way: All temporary signs that are to be located in the public right-of-way must obtain an occupancy permit via the requirements of Section 151, 'Occupancy Permits.' These permits shall be issued for such signs in accordance with the provisions below.

1. An occupancy permit issued for a temporary sign in a public right-of-way shall be valid for 60 days, after which the sign must be removed. No more than three permits for temporary signs shall be issued to an applicant in any calendar year. For any sign containing the name of a political candidate, the candidate shall be deemed to be the applicant.
2. Up to 20 identical temporary signs may be erected in a public right-of-way under a single occupancy permit.
3. In addition to any fees for the involved occupancy permit, the applicant shall post a bond of \$25 for each permitted temporary sign in a public right-of-way. This bond shall be held to ensure the removal of the sign, and shall be refundable upon its removal. The bond on any such sign that is not removed within 75 days of the

issuance of the involved occupancy permit shall be forfeited to the Township, and shall be used to recover the costs of removing and disposing of the sign.

SECTION 625: SIGNS THAT ARE EXEMPT FROM THE REQUIREMENTS OF THIS ARTICLE

The following kinds of signs are exempt from the requirements of this article:

- A. any public notice or warning required by a valid and applicable federal, state, or local law, regulation, or ordinance;
- B. any sign that is inside a building, not attached to a window or door, or not legible from a distance of more than 3 feet beyond the lot line of the involved lot or parcel;
- C. works of art that do not include a commercial message;
- D. signs on the scoreboard or outfield fence of an athletic field;
- E. holiday lights and decorations with no commercial message; and
- F. traffic control signs on private property, such as "STOP," "YIELD," and similar signs, the face of which meet the Pennsylvania Department of Transportation standards, and which contain no commercial message of any sort.

SECTION 630: PROHIBITED SIGNS

All signs that are not expressly permitted under this ordinance or exempted from its regulations by Section 625 ("Signs that are Exempt from the Requirements of this Article ") are prohibited from Benezetette Township. Such signs include, but are not limited to beacons, pennants, strings of lights that are not permanently mounted to a rigid background (except those exempted under Section 625) inflatable signs, and tethered balloons.

SECTION 635: OCCUPANCY PERMITS FOR TEMPORARY SIGNS ON PRIVATE PROPERTY

Where Table "A" of Section 610 ('Signs Allowed on Private Property With and Without Permits') requires occupancy permits to be obtained for temporary signs on private property, these permits shall be obtained in accordance with the provisions below.

- A. Terms:** An occupancy permit for a temporary sign on private property shall be valid for 30 days, after which the sign must be removed.

B. The Maximum Number of Occupancy Permits for Temporary Signs: Only three occupancy permits for temporary signs on private property shall be issued to the same applicant on the same lot in any calendar year.

C. The Requirements of Section 610: All temporary signs on private property are subject to the requirements of Section 610, 'Signs Allowed on Private Property With and Without Permits.'

SECTION 640: ABANDONED SIGNS

If a conforming use has been discontinued for a total of 12 months within an 18-month period, then all signs that are related to that use -- as well as any structures that support these signs - shall be known as "abandoned signs." Likewise, if a nonconforming use has been abandoned as described in Section 154 ('Non-conformities,' letter "D," number "4"), then all signs that are related to that use - as well as any structures that support these signs - shall be known as "abandoned signs." All abandoned signs shall be removed at the expense of their owners. If such a sign is not removed, the Zoning Officer shall enforce the requirements of this section via the procedure given in Section 160, 'Enforcement.'

SECTION 645: NONCONFORMING SIGNS

A. Applicability: The requirements of this section only apply to nonconforming signs. A nonconforming sign is defined as a sign that (1) was legally established before the effective date of this ordinance's enactment (see Section 118, 'The Effective Date of This Ordinance's Enactment'), and (2) does not conform the requirements of Section 605 ('Computations'), Section 610 ('Signs Allowed on Private Property With and Without Permits'), Section 620 ('Signs in the Public Right-of-Way'), or Section 630 ('Prohibited Signs'). Because nonconforming signs are not illegal, they have a right to temporarily remain in place and to be maintained. However, they must adhere to the requirements of this section.

B. Phasing Out Nonconforming Signs: So long as it does not threaten the public health or welfare, a nonconforming sign may temporarily maintain its nonconforming characteristic or characteristics. However, all nonconforming signs that are not temporary shall be brought into conformance with the requirements of Sections 605, 610, 620, and 630 within 5 years of the effective date of this ordinance's enactment (see Section 118, 'The Effective Date of This Ordinance's Enactment'). All nonconforming temporary signs shall be brought into conformance with the requirements of Sections 605, 610, 620, and 630 within 60 days of the effective date of this ordinance's enactment (see Section 118, "The Effective Date of This Ordinance's Enactment").

C. Nonconforming Status: The following rules apply to or concern all nonconforming signs.

1. The Zoning Officer shall keep and maintain a list of all nonconforming signs that exist in the Township on the effective date of this ordinance's enactment (see Section 118, 'The Effective Date of This Ordinance's Enactment') and on the effective dates of any relevant amendments to either this ordinance or its map.
2. The owner of a nonconforming sign may obtain a "certificate of nonconformity" from the Township's Zoning Officer. This certificate shall state that the sign may continue to be used until a date that is 60 days from the effective date of this ordinance's enactment (see Section 118) in the case of temporary signs, or a date that is 10 years from the effective date of this ordinance's enactment in the case of non-temporary signs.
3. Aggrieved parties and the involved landowner may both appeal the Zoning Officer's determination of whether a sign is nonconforming according to the rules of Section 169, 'Appealing the Determination of a Municipal Officer.'
4. Any sign that was illegally erected or painted under a previous zoning ordinance or land use regulation shall remain illegal under this ordinance, even if it conforms to this ordinance's regulations.
5. Any sign that becomes a nonconforming sign due to an amendment made after the effective date of this ordinance's enactment shall be subject to the regulations of this section.

D. Maintaining Nonconforming Signs: The following rules apply to all non-conforming signs.

1. If any nonconforming sign deteriorates to an unsightly or hazardous condition, the owner of that sign shall repair, repaint, remove, or replace it. If the Township Zoning Officer finds that such a sign has not been repaired, repainted, removed, or replaced, he or she shall enforce this requirement via the procedures given in Section 160, 'Enforcement.'
2. A nonconforming sign may be (1) repaired, (2) repainted, or (3) removed for repair and then re-mounted without obtaining any zoning or occupancy permits.

E. Replacing Nonconforming Signs:

1. Within the periods established under letter "B" above, a nonconforming sign may be replaced with an identical nonconforming sign if the use that the sign relates to (1) has not changed since the original sign was constructed or painted, and (2) has not been discontinued for a total of 12 months within an 18 month period or abandoned as described in Section 154 ('Nonconformities'), letter "number "4." Otherwise, the nonconforming sign may only be replaced with a new, conforming sign.

2. Replacing a temporary nonconforming sign with an identical temporary nonconforming sign does not require any permits. However, replacing a non-temporary, nonconforming sign with an identical non-temporary, nonconforming sign requires both a zoning permit and an occupancy permit. Section 148 ('Zoning Permits') explains how to obtain a zoning permit, while Section 151 ('Occupancy Permits') explains how to get an occupancy permit. Note that this ordinance considers replacing a nonconforming sign with a non-identical sign to be the same as erecting a new sign. Thus, such a replacement may or may not require a zoning and/or an occupancy permit, depending on the type and location of the involved sign.

F. Enlarging, Relocating, or Altering Nonconforming Signs:

1. A nonconforming sign shall not be enlarged or relocated within the Township.
2. A nonconforming sign shall not be altered in any aspect except (1) to make safety improvements, (2) to keep the sign maintained in accordance with the requirements of this section or other Township ordinances, or (3) to bring the sign into conformance with the requirements of this ordinance.

G. Bringing a Nonconforming Sign into Conformance: If a nonconforming sign is altered so that it becomes a conforming sign, it shall not be subsequently altered back to a nonconforming state. Likewise, if a nonconforming sign is replaced with a conforming sign, that conforming sign shall not be subsequently replaced with another nonconforming sign.

H. Abandoned Nonconforming Signs: If a conforming use has been discontinued for a total of 12 months within an 18-month period, then all nonconforming signs that are related to that use - as well as any structures that support these signs - shall be known as "abandoned nonconforming signs." Likewise, if a nonconforming use has been abandoned as described in Section 154 ('Nonconformities'), Letter "D," number "4," then all nonconforming signs that are related to that use - as well as any structures that support these signs - shall be known as "abandoned nonconforming signs." All abandoned nonconforming signs shall be removed at the expense of their owners. If such a sign is not removed, the Zoning Officer shall enforce this requirement via the procedures given in Section 160, 'Enforcement.'

ARTICLE VII

ADMINISTRATION

SECTION 700: THE ZONING OFFICER

A. The Purposes, Organization, and Applicability of this Section: The Zoning Officer is an appointed officer of Benezette Township. As such, he or she is a nonelected member of the Township's executive branch. The Zoning Officer is this ordinance's chief administrative official, and thus, is key to the success of this ordinance in meeting its goals.

Letter "B" of this section notes how the Zoning Officer should be appointed by Board of Township Supervisors, Letter "C" explains his or her powers under this ordinance, and Letter "I" discusses his or her ability to conduct inspections. Letter "E" lists the duties of the Zoning Officer.

The provisions of Section 700 only apply to the Zoning Officer and the parties with which he or she comes into contact. Like the other sections of Article 7, these provisions do not apply to the property owners regulated by this ordinance unless a section of Article I or Article 2 says so.

B. The Appointment of the Zoning Officer: A Zoning Officer shall be appointed by Board of Township Supervisors to administer this ordinance. This officer shall:

1. not hold any elected offices within Benezette Township;
2. meet qualifications established by the Township;
3. be able to demonstrate to the satisfaction of the Board of Township Supervisors a working knowledge of municipal zoning; and
4. be familiar with both this ordinance and the comprehensive plan.

C. The Powers of the Zoning Officer: The zoning officer shall administer this ordinance in accordance with its literal terms. He or she shall not have the power to permit any construction, use, or change of use which does not conform to the provisions of this ordinance.

D. Inspections: In fulfilling the duties listed under letter "E" below, the Zoning Officer is hereby authorized to enter and inspect any building, structure, premises, property, or development in the Township at any reasonable hour upon presentation of proper credentials. If entry is refused, the Zoning Officer shall notify the Township Solicitor.

E. The Duties of the Zoning Officer: The Zoning Officer's duties are as follows.

1. The Zoning Officer shall receive, process, file copies of, and make decisions on all applications for zoning permits as required by Section 148, 'Zoning Permits.' Where such a permit is denied, the Zoning Officer shall inform the applicant, in writing, of the basis for this denial.
2. The Zoning Officer shall receive, process, file copies of and make decisions on all applications for occupancy permits as required by Section 151, 'Occupancy Permits.' Where such a permit is denied, the Zoning Officer shall inform the applicant, in writing, of the basis for this denial.
3. The Zoning Officer shall receive, process, file copies of, and make decisions on all requests for preliminary opinions as required by Section 175, 'Preliminary Opinions.' The Zoning Officer shall inform the applicant, in writing, of his or her decision and the basis thereof.
4. The Zoning Officer shall grant a certificate of nonconformity to the owner of a nonconforming structure, building, sign, lot, or land use (1) when the owner requests such a certificate, and (2) if his or her property is found to be nonconforming (as opposed to conforming or illegal) (see Section 154, 'Nonconformities'). Where such a certificate is denied, the Zoning Officer shall inform the applicant, in writing, of the basis for this denial.
5. The Zoning Officer shall make and maintain a list of all nonconforming structures, buildings, signs, lots, and land uses within the Township, as required by Section 154, 'Nonconformities.'
6. The Zoning Officer shall maintain the "Official Zoning Map of Benazette Township as requested by Section 210, 'Establishment of the Official Zoning Map.'
7. The Zoning Officer shall receive, process, file copies of, forward, and schedule hearings for all applications for hearings before the Zoning Hearing Board - including applications for variances (see Section 157, 'Variances'), expanding a nonconforming land use (see Section 154, 'Nonconformities') changing one nonconforming use to another (see Section 154, 'Nonconformities'), challenges to the procedural validity of this ordinance that are to be heard by the Board (see Section 163, 'Procedural Challenges'), challenges to the substantive validity of a provision of this ordinance that are to be heard by the Board (see Section 166, 'Substantive Challenges'), special exceptions (see Article 3, 'Special Exceptions and Conditional Uses'), challenges to the determination of a municipal officer (see Section 169, 'Appealing the Determination of a Municipal Officer'), and challenges to the Zoning Officer's preliminary opinions (see Section 175, 'Preliminary Opinions').
8. In all Zoning Hearing Board hearings, the Zoning Officer shall provide all involved parties with copies of the items sent to the Board, advertise the hearing as required by the public notice provisions of Section 705 ('The Zoning Hearing

Board’), and represent Benezette Township as a party to the hearing [*should this be the township secretary?*]. The Zoning Officer should not prepare the Board's decisions, as this would be a conflict of interest.

9. The Zoning Officer shall receive, process, file copies of, forward, and schedule hearings for all applications for zoning-related hearings before the Board of Township Supervisors - including applications for conditional uses (see Article 3, ‘Special Exceptions and Conditional Uses’), landowner curative amendments (see Section 166, ‘Substantive Challenges’), and temporary uses (see Article 4, ‘Temporary Uses’).

10. In all zoning-related Board of Township Supervisors hearings, the Zoning Officer shall provide all involved parties with copies of the items sent to the Board of Township Supervisors, and advertise the hearing as required by the public notice provisions of Section 710 (‘The Board of Township Supervisors’).

11. The Zoning Officer shall collect all zoning-related fees required by this or any other pertinent ordinance.

12. The Zoning Officer shall properly maintain all filings required by this section.

13. The Zoning Officer shall interpret this ordinance in accordance with Section 121, ‘Interpreting the Language of This Ordinance.’

14. The Zoning Officer shall send enforcement notices to what he or she deem to be violators of this ordinance as specified in Section 160, ‘Enforcement.’ Such notices should be sent via certified mail, sent return receipt requested, or personally served to provide proof that the notice was received.

15. The Zoning Officer shall receive, process, file copies of, and make decisions on all applications for home occupations as required by Section 505, ‘Home Occupations.’ The Zoning Officer shall provide, in writing, the basis for these decisions.

16. The Zoning Officer shall determine the adequacy of any buffering required by this ordinance and require more buffering when necessary according to the requirements of Section 520, ‘Required Buffering.’

17. The Zoning Officer shall perform all other duties prescribed for him or her by this or any other pertinent ordinance.

SECTION 705: THE ZONING HEARING BOARD

A. The Purposes, Organization, and Applicability of This Section: The Zoning Hearing Board of Benezette Township is a quasi-judicial body within the municipal government. It

has no legislative power, has no enforcement power, and cannot make or modify zoning policy. It is instead a judicial-like body that helps to assure fair and equitable application and administration of this ordinance. The purposes of this section are to establish the Board, outline its duties, and prescribe procedures that it is to use in fulfilling its duties.

Letter “B” of this section explains how the Board is to be established, while letter “C” details how its members may be removed. Letter "D" explains how the Board is to be organized and provides some guidance concerning how it is to operate. Letter “E” discusses how the Board may spend money. Letter “F” lists the duties of the Board and provides some rules on how these duties are to be carried out. Letter “G” notes that the Board's decisions may be appealed to the relevant court of common pleas.

The Zoning Hearing Board must use the same procedure in each of its hearings - regardless of which one of its duties from letter "F" that hearing falls under. Throughout this ordinance, provisions that concern the Zoning Hearing Board have remarked that it is to hear the involved case "via the procedure outlined in Section 705." This procedure is provided in a multi-page table under letter "H."

The provisions of Section 705 only apply to the Zoning Hearing Board and the parties with which it comes into contact. Like the other sections of Article 7, these provisions do not apply to the property owners regulated by this ordinance unless a section of Article I or Article 2 says so.

B. The Formation of the Zoning Hearing Board: The Zoning Hearing Board of Benazette Township shall consist of three residents of the Township, appointed by Board of Township Supervisors via a resolution. Each member's term of office shall be three years and shall be fixed so that the term of one member shall expire each year. Members of the Zoning Hearing Board shall hold no other office in the municipality.

The Board of Township Supervisors may also appoint by resolution from one to three residents of the Township to serve as alternate members of the Board. The term of office of an alternative member shall also be three years. When an alternative is seated on the Board (see letter "D" below), he or she shall be entitled to participate in all proceedings to the same extent as any other member of the Board. However, alternates shall not be entitled to vote as a member of the Board or be compensated unless they have been designated as a voting alternate member as required by letter "D" below. Alternates shall also hold no other office in the municipality.

C. The Removal of Zoning hearing Board Members: Any board member may be removed for malfeasance, misfeasance, or nonfeasance in office or for other just cause by a majority vote of the Board of Township Supervisors. However, the member must receive notice of the intent to take such a vote at least 15 days before the actual vote is taken, and he or she may request that a public hearing be held in connection with the vote.

D. The Organization of the Board: The Zoning Hearing Board shall elect officers from its own membership. Such officers shall serve annual terms and may succeed themselves.

For the conduct of any hearing and the taking of any action or votes, a quorum shall be no less than a majority of all of the members of the Board. However, the Board may appoint a hearing officer from its own membership to conduct any hearing on its behalf as noted under letter "H" below, the applicant/appellant and the Township may agree to accept the decision or findings of the Hearing Officer as final, and to relieve the Board of voting on any final decisions.

If, for reasons of absence or disqualification, a quorum is not reached, the chairman of the Board shall designate enough alternates as voting alternative members to reach the quorum. Any alternate so designated shall continue to serve on the Board in all proceedings involving the matter or case for which he or she was designated until the Board has made a final determination on that matter or case. Such designations shall be made on a rotating basis among all alternates on the order of declining seniority.

Tie votes shall be interpreted as maintaining the status quo in the matter at hand. For instance, special exceptions are denied when the Board is tied.

The Board may make, alter and rescind rules and forms for its procedure, consistent with the requirements of this ordinance and the laws of the Commonwealth of Pennsylvania. The board shall keep full public records of its business and shall submit a report of its activities to Board of Township Supervisors if requested.

E. Expenditures for Services: Within the limits of funds available, 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 fixed by the Board of Township Supervisors, but this compensation may not exceed the Board of Township Supervisors's own compensation. Alternates may also be paid compensation, as fixed by the Board of Township Supervisors, when they are designated as voting alternative members of the Board. However, their compensation may also not exceed the - compensation paid to members of Board of Township Supervisors.

F. The Duties of the Zoning Hearing Board: The Board's duties shall be as follows. All hearings conducted in pursuit of these duties shall be held according to the rules of letter "H" below.

1. The Board shall hear substantive challenges to the validity of this ordinance and its amendments in accordance with Section 166, "Substantive Challenges."
 - a. Based on the testimony presented at the hearing or hearings, the Board shall determine whether the challenged ordinance, ordinance provision, or map is defective as alleged by the applicant. If the challenge is found to have merit, then the final decision of the Board shall include recommended amendments to the challenged ordinance which will cure the involved defects.

b. In reaching its decision on a substantive challenge to validity of this ordinance or its amendments, the Board shall consider:

(1) the impact of the proposal on roads, sewer facilities, water supplies, schools, and other public service facilities;

(2) if the proposal is for a residential use, the impact of the proposal on regional housing needs and the effectiveness of the proposal in providing housing units of a type available to and affordable by classes of persons otherwise unlawfully excluded by the challenged provisions of the ordinance or map;

(3) the suitability of the site for the intensity of use proposed, considering the site's soils, slopes, woodlands, wetlands, flood plains, aquifers, natural resources, and other natural features;

(4) the impact of the proposed use on the site's soils, slopes, woodlands, wetlands, floodplains, natural resources, and natural features, the degree to which these are protected or destroy the tolerance of the resources to Development and any adverse environmental impacts; and

(5) the impact of the proposal on the preservation of agriculture and other land uses which are essential to public health and welfare.

c. The challenge shall be deemed to be denied if the Board (1) votes against the challenge, (2) fails to commence the hearing within 60 days, or (3) fails to act on the application within 45 days of the close of the last involved hearing. In the latter two of these cases, the involved time limit may be extended by mutual consent of the applicant and the municipality. If no such consent is reached, the challenge shall be denied on the day after the last day that the Board could have taken the involved action.

2. The Board shall hear procedural challenges to the validity of this ordinance or one of its amendments in accordance with Section 163.

3. The Board shall hear appeals from the zoning related determinations of any Municipal officer, including the zoning officer, in accordance with Section 169.

4. The board shall hear appeals from the determinations of the municipal engineer or the Zoning Officer with reference to any flood plain provisions of any land use ordinance.

5. The board shall hear appeals to the Zoning Officer's preliminary opinions (see Section 175).

6. The board shall hear applications for variances in accordance with Section 157.
7. The board shall hear applications for special exceptions in accordance with Article 3. In granting a special exception, the Board may attach any reasonable conditions and safeguards as it may deem necessary to implement the purposes of this ordinance.
8. The board shall hear applications to expand a nonconforming land use or to change one nonconforming land use to another in accordance with Section 154.
9. For land uses not listed in the table under Section 265, Letter D, the Zoning Hearing Board shall determine (1) which zoning districts they shall be allowed in, (2) how they shall be allowed in those districts (i.e. as permitted principal uses, accessory uses, conditional uses etc.), and (3) which sections of the remainder of the ordinance apply to them. The board may ask the Planning Commission for a recommendation on these matters.
10. The Board shall hear all other applications and appeals that are assigned to it by this ordinance or the laws of the Commonwealth of Pennsylvania.

G. Appeals from the Decisions of the Zoning Hearing Board: All decisions rendered by the Zoning Hearing Board may be appealed to the Court of Common Pleas of the judicial district where the involved land is located, so long as these appeals are filed no more than 30 days after the Board renders its decision.

H. The Procedure to be used by the Zoning Hearing Board: In fulfilling its duties listed under Letter F, the Board shall follow the rules and procedures specified for it by the table below.

<u>Subject</u>	<u>Rules</u>
Time Limitations	<p>Each hearing that is to be held shall begin within 60 days of the date that the request Limitations for that hearing was filed.</p> <p>The Zoning Hearing 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 of the end of the hearing.</p> <p>If the hearing is conducted by a hearing officer (see letter 'D' above), and there has been no stipulation that his or her decisions or findings are final, the Zoning Hearing Board shall make his or her report and recommendations available to all of the involved parties within 45 days of the end of the hearing. The parties are then entitled to make written responses to this report. The Zoning Hearing Board shall make a final decision after reading these responses, but no later than 30 days after the Hearing Officer's report is issued.</p>

	<p>Where the Zoning Hearing Board fails to render this decision within the required period, or where the Board fails to hold the hearing within the required period, the decision shall be deemed to have been rendered in favor of the applicant or appellant (as the case may be) - unless either (1) the applicant/appellant has agreed in writing or on the record to an extension of time, or (2) the hearing concerns a challenge to the substantive validity of the ordinance³⁰ (see Section 166, "Substantive Challenges"). When a deemed decision is rendered, the Board shall give notice of this - within 10 days of the last day that it could have suet to render a decision -- to the parties and at the locations listed under "Required Public Notice" below. If the Board fails to provide such notice, the applicant /appellant may do so. Note that protesting or aggrieved parties cannot obtain a deemed decision.</p>
<p>Required Public Notice</p>	<p>A notice containing the information listed under "Contents of R Notice" below shall be published once each week for two successive weeks in a newspaper of general circulation in the Township. The first of these publications shall not be more than 30 days before the date of the hearing, and the second shall not be less than 7 days before the date of the hearing.</p> <p>Written notice shall be mailed to (1) the applicant, (2) the Zoning Officer, (3) any other party that Board of Township Supervisors has designated by ordinance, and (4) any party that has requested such notice. The timing and manner of this notice shall follow rules adopted by the Zoning Hearing Board.</p> <p>Written notice shall be conspicuously posted on the involved tract of land at least one week prior to the hearing.</p>
<p>Contents of the Required Public Notice</p>	<p>The notice shall state that the Zoning Hearing Board of Benazette Township will hold a public hearing on the appropriate date, at the proper time, and at the pertinent location.</p> <p>The purpose of the hearing and the particular issue or issues that will be discussed there shall be summarized.</p> <p>The name of the applicant or appellant (as the case may be) shall be given, as well as a brief summary of his or her proposal or appeal.</p> <p>The location or locations of the involved property or properties shall be provided.</p> <p>Any applicable sections of the ordinance shall be cited.</p> <p>If the involved hearing involves a substantive challenge to the validity of this ordinance or one of its amendments, then the notice shall state that the validity of the ordinance is being questioned and note where the public may examine a copy of the challenge - including any plans, explanatory materials, or proposed amendments.</p>

	<p>The following statement shall be included: "All persons having an interest in these matters are encouraged to attend this meeting. Persons with a disability who wish to attend this hearing and require an auxiliary aid, service, or other disability accommodation to participate in the proceedings can be accommodated by contacting the Township Manager's Office."</p> <p>The date of the publication shall be given.</p>
Stays of Proceedings	<p>An appeal to the Zoning Hearing Board automatically stops all affected land development. However, if the Zoning Officer certifies that such a halt would cause an imminent danger to life or property, then the development may be stopped only with a restraining order granted by the Zoning Hearing Board or by any court with competent jurisdiction - following notice to the Zoning Officer.</p> <p>An applicant or appellant may petition a court of competent jurisdiction to force those contesting an authorized permit or approval to either post bond or drop their appeal. The burden of proof shall be on the applicant/appellant to prove that the appeal is frivolous. If the party contesting an authorized permit or approval refuses to post bond as ordered by the involved court, appeals to an appellate court, and loses, then that party is liable for all reasonable costs, expenses, and attorney fees incurred by the applicant/appellant.</p>
Parties in the Hearing	<p>The parties to the hearing shall be (1) the Township, (2) any person affected by the application or appeal who has made timely appearance of record before the Board, and (3) any other person including civic or community organizations - permitted to appear by the Board. The Board may require that everyone who wishes to be considered a party to a hearing fill out a form that asks (1) the person's name and address, (2) who he or she is representing, and (3) whether or not he or she desires a copy of any final decision in the case.</p>
Fees	<p>The Board of Township Supervisors may prescribe reasonable fees for a Zoning Hearing Board hearing which may include (1), compensation for the secretary and members of the Board, (2) public notice and advertising costs, (3) necessary administrative overhead connected with the hearing, and (4) one-half of the stenographer's fee (the other half must be paid by the Board).</p> <p>The cost of the original transcript shall be paid by the Board if the original is ordered by the Board or the Hearing Officer, and shall be paid by the applicant/appellant if he or she orders it. Additional copies shall be paid for by the parties requesting them.</p> <p>Fees may not compensate for the legal expenses of the Board. Furthermore, fees may not be used to compensate engineering, architectural, planning, or other technical consultants or expert witnesses.</p>
The Zoning Hearing Board's Solicitor	<p>The Zoning Hearing Board may hire its own solicitor. The Zoning Hearing Board's solicitor shall be a different person, and shall be from different law firm, than the Township's Solicitor.</p>

<p>Conducting the Hearing</p>	<p>Either the Zoning Hearing Board or a Hearing Officer (see letter "D" above) shall conduct all hearings.</p> <p>A stenographic record that conforms with civil trial transcripts must be taken in all hearings. Furthermore, written minutes shall be taken of all Board meetings. The substance of all official actions, the names of people who appear officially, and the subject of their testimony must be recorded.</p> <p>Each party has the right to be represented by council, to present and respond to evidence, and to cross-examine adverse witnesses on all relevant issues.</p> <p>The chairman of the Zoning Hearing Board (if a Hearing Officer has not been appointed) or the Hearing Officer (if one has been appointed, see Fetter "D" above) has the power to administer oaths and issue subpoenas to compel both the attendance of relevant witnesses and the production of relevant papers. All testimony should be sworn, as unsworn statements do not constitute legal evidence to make a record.</p> <p>Formal rules of evidence do not apply to hearings. However, the Zoning Hearing Board may exclude any irrelevant, immaterial, or unduly repetitious evidence. Hearsay evidence; if not objected to, may be given its natural probative value. Yet, the Board has the power to reject even un-contradicted testimony if it finds this testimony to be lacking in credibility.</p> <p>In the time following the beginning of a hearing and prior to a rendering of the decision or findings, the Board shall not communicate with any party or party representatives unless all parties are given an opportunity to participate. No communication, reports, staff memoranda, or other materials - except advice from the Board's own solicitor - may be accepted or noticed by the Board unless all parties are given an opportunity to contest that information. The Board should not inspect the involved site or its surroundings during the hearings unless all parties are given an opportunity to be present. Any reports by the Zoning Officer shall be filed with all involved parties.</p> <p>A case should not be postponed to a later date without substantial or compelling reasons, especially if the issue is of great concern and has attracted an audience. However, where (1) a new issue is raised for the first time at a hearing, and (2) the applicant/appellant had no notice of this issue, the hearing should be continued at a later date to give the applicant/appellant an opportunity to react properly. When a case is continued at a second hearing, a notice shall be prominently posted at the hearing site, and all involved parties must be notified.</p>
<p>Mediation</p>	<p>Mediation is "a voluntary negotiating process in which parties in a dispute mutually select a neutral mediator to assist them in jointly exploring and settling their differences, culminating in a written agreement which the parties themselves create and consider acceptable" (from The Pennsylvania Municipalities Planning Code). Mediation is intended to supplement, but not replace, the procedures for</p>

	<p>Zoning Hearing Board hearings specified here. It can provide a potentially less costly mechanism for resolving land use disputes, as well as a less polarized process.</p> <p>In no case may the Zoning Hearing Board initiate mediation or participate as a mediating party.</p> <p>Participation in mediation must be voluntary, and the involved parties must agree to (1) funding, (2) the selection of a mediator, (3) the completion of mediation (including the time limits for such a completion), (4) the suspension of the time limits authorized by this ordinance and the Pennsylvania Municipalities Planning Code (Act of 1968, P.L. 805, No. 247, as reenacted and amended), (5) the identification of all parties, (6) the determination of whether some or all sessions shall be open or closed, and (7) the issuance of mediation solutions in writing, subject to review and approval by the decision making body.</p> <p>No offers or statements made in the mediation sessions, excluding the final written mediated agreement, can be admissible as evidence in any subsequent judicial or administrative proceedings.</p>
<p>Making a Decision</p>	<p>The decision or, where no decision is called for, the findings shall be made by the Zoning Hearing Board. However, the applicant/appellant and the Township may agree before this decision to waive this and instead accept the decision or findings of the Hearing Officer as final (if a Hearing Officer has been appointed).</p> <p>In voting on a final decision, the vote cast by each member of the Board (or the Hearing Officer, where appropriate) shall be made publicly.</p> <p>Where an application or appeal is contested or denied, the resulting decision must be accompanied by a finding of fact, the conclusions based on these facts, and the reason that such conclusions were drawn. This will show that the decision was reasoned, and not arbitrary. References to any provisions of any ordinance, rule, or regulation relied on for any conclusion must be made, along with the reason that the conclusion is appropriate for the particular case at hand.</p> <p>Even where an application or appeal is not contested, the resulting decision should be accompanied by a statement of findings or an opinion that is detailed enough to substantiate the Zoning Hearing Board's decision.</p> <p>A copy of the final decision, or where no decision is called for, the findings must be delivered or mailed to the applicant/appellant no later than the day after the date of the report.</p> <p>All other parties to the hearing, as well as all of the parties that are listed under "Required Public Notice" above, shall be sent a brief notice of the decision or findings and a statement of the place at which the full decision or findings may be examined.</p>

SECTION 710: THE BOARD OF TOWNSHIP SUPERVISORS

A. The Purposes, Organization, and Applicability of this Section: The Board of Township Supervisors of Benazette is the chief governing body of the Township and is the only body that can set the Township's zoning policy. The Board of Township Supervisors, of course, has many duties. The purpose of this section is to address only the Board of Township Supervisors' zoning-related duties outlining these duties and prescribing the procedures that the Board of Township Supervisors is to use in fulfilling them.

Letter "B" of this section lists the Board's major duties under this ordinance and specifies some rules that apply to each. Letter "B" number "1" addresses the appointment of the Zoning Officer, number "2" discusses the granting of temporary uses (see Article 4, 'Temporary Uses'), and number deals with the granting of conditional uses (see Article 3, 'Special Exceptions and Conditional Uses'). Number "4" specifies the process by which the Board of Township Supervisors may amend this ordinance, while number "5" explains how the Board of Township Supervisors is to hear and decide on landowner curative amendments to this ordinance (see Section 166, 'Substantive Challenges').

Letter "B" number "7" explains the procedure for municipal curative amendments. A municipal curative amendment can be used to fix a portion of this ordinance that is substantially invalid. It has a major advantage over fixing invalid provisions via a plain amendment (i.e., the procedure described in letter "B" number "4") in that the Township need not entertain any substantive challenges to these provisions (see Section 166, 'Substantive Challenges') during the municipal curative amendment process - which can save the Township a significant amount of time and money.

The provisions of Section 710 only apply to the Board of Township Supervisors and the parties with which it comes into contact on zoning-related issues. Like the other sections of Article 7, these provisions do not apply to the property owners regulated by this ordinance unless a section of Article I or Article 2 says so.

B. The Zoning-Related Duties of the Board of Township Supervisors: The Board of Township Supervisors's major duties under this ordinance - as well as some rules that apply to these duties - are provided below.

1. The Board of Township Supervisors shall appoint the Township's Zoning Officer according to the requirements of Section 700, 'The Zoning Officer.'
2. The Board of Township Supervisors shall hear all applications for temporary uses according to both the following rules and the express requirements of Article 4, 'Temporary Uses.'
 - a. The Board of Township Supervisors shall commence a hearing on an application for a temporary use within 60 days of that application's being filed - in a complete state - with the Zoning Officer.

b. The Zoning Officer shall provide public notice of this hearing in the same manner as the public notice of a special exception hearing before the Zoning Hearing Board would be provided (see Section 705, letter "H").

c. The Board of Township Supervisors shall render a written decision on the temporary use application within 45 days of the last involved hearing before the Board of Township Supervisors.

d. Where the Board of Township Supervisors fails to commence the hearing within the first period stipulated above, or where the Board of Township Supervisors fails to render the decision within the second period stipulated above, the decision shall be deemed to have been rendered in favor of the applicant unless the applicant has agreed in writing or on the record to an extension of time. When a decision has been deemed in this manner, the Board of Township Supervisors shall give public notice of the decision within 10 days of the last day that it could have met to render a decision.

e. Where the application is contested or denied, it shall be accompanied by findings of facts, the conclusions based on these facts, and the reason that such conclusions were drawn. This will show that the decision was reasoned, and not arbitrary. References to any provisions of any ordinance, rule, or regulation relied on for any conclusion must be made, along with the reason that the conclusion is appropriate for the particular case at hand.

f. A copy of the final decision shall be delivered to the applicant personally or mailed to him no later than the day following its date.

g. The Board of Township Supervisors' decision concerning an application for a temporary use may be appealed to any court of competent jurisdiction.

3. The Board of Township Supervisors shall hear all applications for conditional uses according to both the following rules and the express provisions of Article 3, 'Special Exceptions and Conditional Uses.'

a. The Board of Township Supervisors shall commence a hearing on an application for conditional use within 60 days of that application's being filed - in a complete state - with the Zoning Officer.

b. The Zoning Officer shall provide public notice of this hearing in the same manner as the public notice of a special exception hearing before the Zoning Hearing Board would be provided (see Section 705, letter "1").

c. The Board of Township Supervisors shall render a written decision within 45 days of the last involved hearing before the Board of Township Supervisors.

d. Where the Board of Township Supervisors fails to commence the hearing within the first period stipulated above, or where the Board of Township Supervisors fails to render the decision within the second period stipulated above, the decision shall be deemed to have been rendered in favor of the applicant unless the applicant has agreed in writing or on the record to an extension of time. When a decision has been deemed in this manner, the Board of Township Supervisors shall give public notice of the decision within 10 days of the last day that it could have met to render a decision.

e. In granting a conditional use, Board of Township Supervisors may attach reasonable conditions and safeguards, in addition to those expressed in Article 3 (“Special Exceptions and Conditional Uses”), as it may deem necessary to implement the purposes of this ordinance.

f. Where the application is contested or denied, it shall be accompanied by findings of facts, the conclusions based on these facts, and the reason that such conclusions were drawn. This will show that the decision was reasoned, and not arbitrary. References to any provisions of any ordinance, rule, or regulation relied on for any conclusion must be made, along with the reason that the conclusion is appropriate for the particular case at hand.

g. A copy of the final decision shall be delivered to the applicant personally or mailed to him no later than the day following its date.

h. Applications for conditional uses may be appealed to any court of competent jurisdiction.

4. The Board of Township Supervisors shall enact all amendments to this ordinance that are not landowner curative amendments according to the rules below.

a. Before voting on the enactment of such an amendment, the Board of Township Supervisors shall hold a public hearing.

b. Public notice of this hearing shall be provided according to the rules below.

1. The public notice shall include the time and place of the hearing, the purpose of the hearing, the full text or a brief summary of the proposed amendment prepared by the Township Solicitor, the date of the publication, and a statement that reads: “All persons having an interest in these matters are encouraged to attend this meeting. Persons with a disability who wish to attend this hearing and require an auxiliary aid, service, or other disability accommodation to participate in the proceedings can be accommodated by contacting the Township Manager's Office.”

2. If a summary of the proposed amendment is included in the public notice instead of its full text, then (1) the notice shall include a place within the municipality where copies of the full text may be examined without charge or copied at cost, (2) a copy of the full text shall be supplied to a newspaper of general circulation in the Township at the time the public notice is published in that paper, and (3) an attested copy of the full text shall be filed in the Elk County law library or another county office designated by the county commissioners.

3. This public notice shall be published in a newspaper of general circulation once each week for two consecutive weeks. The first of these publications shall not be more than 60 days prior to passage or 30 days before the hearing. The second of these shall not be less than 7 days before either the hearing or passage.

4. If substantial changes are made in the proposed amendment before passage but after the involved public hearing, then a notice shall be published in a newspaper of general circulation within Benazette at least 10 days prior to enactment that sets forth the provisions in reasonable detail together with a summary of the changes made. If these changes involve land that was previously not affected by the proposed amendment, then the above requirement shall be dropped, and the public hearing process shall start over again.

5. If the amendment at hand involves a zoning map change, then notice of the hearing shall be posted by the Township at points deemed sufficient along involved tracts to notify potentially interested citizens. Such postings shall be made at least one week prior to the date of the hearing.

c. If the amendment was prepared by a group other than the planning commission, the Board of Township Supervisors shall submit it to the planning commission at least 30 days prior to that amendment's hearing so that the planning commission may submit its recommendations.

d. The Board of Township Supervisors shall submit the proposed amendment to the Elk County Planning Commission for recommendations at least 30 days before that amendment's public hearing. If the amendment is enacted, then a copy of it shall be forwarded to the Elk County Planning Commission within 30 days of this enactment.

e. The Township may offer a mediation option as an aid in completing this section's proceedings. Mediation is described in table 32 in Section 705, 'The Zoning Hearing Board,' letter "H."

5. The Board of Township Supervisors shall hear all applications for landowner curative amendments according to both the following rules and the provisions of Section 166, 'Substantive Challenges.'

a. The Board of Township Supervisors shall commence a hearing on a proposed landowner curative amendment within 60 days of the filing of a complete application for that amendment.

b. Public notice of this hearing shall be given according to the requirements of letter "B," number "4," letter "b" above. This notice shall include (1) notice that the validity of the ordinance or map is in question, and (2) the place and times where a copy of the proposed amendment - including any plans or explanatory materials may be examined by the public.

c. The Board of Township Supervisors shall submit the proposed amendment to the planning commission at least 30 days prior to that amendment's hearing so that the planning commission may submit its recommendations.

d. The Board of Township Supervisors shall render a written decision within 45 days of the end of the hearing.

e. The Board of Township Supervisors may prescribe reasonable fees for such a hearing which may include (1) compensation for the secretary, (2) public notice and advertising costs, (3) necessary administrative overhead connected with the hearing, and (4) one-half of the stenographer's fee. The cost of the original transcript shall be paid by the Township if the original is ordered by the Township and shall be paid by the applicant if he or she orders it. Additional copies shall be paid for by the parties requesting them. Fees may not compensate for the legal expenses of the Board of Township Supervisors. Furthermore, fees may not be used to compensate engineering, architectural, planning, or other technical consultants or expert witnesses.

f. The hearing itself shall be conducted according to the rules below.

<u>SUBJECT</u>	<u>RULES</u>
Conducting the Hearing	Conducting a stenographic record that conforms to civil trial transcripts must be taken in all hearings. The substance of all official actions, the names of people who appear officially, and the subject of their testimony must be recorded.

	<p>Each party has the right to be represented by legal counsel, to present and respond to evidence, and to cross-examine adverse witnesses on all relevant issues.</p> <p>The Township Solicitor shall represent the Board of Township Supervisors, if requested. However, the Board of Township Supervisors may retain an independent attorney to present the defense of the challenged ordinance.</p> <p>The Board of Township Supervisors has the power to administer oaths and issue subpoenas to compel both the attendance of relevant witnesses and the production of relevant papers. All testimony should be sworn, as unsworn statements do not constitute legal evidence to make a record.</p> <p>Formal rules of evidence do not apply to these hearings. However, the Board of Township Supervisors may exclude any irrelevant, immaterial, or unduly repetitious evidence. Hearsay evidence, if not objected to, may be given its natural probative value. Yet, the Board of Township Supervisors has the power to reject even un-contradicted testimony if it finds this testimony to be lacking in credibility.</p> <p>In the time following the beginning of a hearing and prior to a rendering of the decision or findings, the Board of Township Supervisors shall not communicate with any party or party representatives unless all parties are given an opportunity to participate. No communication, reports, staff memoranda, or other materials may be accepted or noticed by the Board of Township Supervisors unless all parties are given an opportunity to contest that information. The Board of Township Supervisors should not inspect the involved site or its surroundings during the hearings unless all parties are given an opportunity to be present. Any reports by the Zoning Officer shall be filed with all involved parties.</p> <p>A case should not be postponed to a later date without substantial or compelling reasons, especially if the issue is of great concern and has attracted an audience. However, where (1) a new issue is raised for the first time at a hearing, and (2) the applicant had no notice of this issue, the hearing should be continued at a later date to give the applicant an opportunity to react properly. When a case is continued at a second hearing, a notice shall be prominently posted at the hearing site, and all involved parties must be notified.</p>
Making a Decision	<p>In voting on a final decision, the vote cast by each Board of Township Supervisors member shall be made publicly.</p>

	<p>In making its decision, the Board of Township Supervisors shall consider (1) the proposed amendments, plans, and explanatory materials submitted by the applicant; (2) the impact of the proposal on roads, sewer facilities, water supplies, schools, and other public service facilities; (3) the impact of the proposal on regional housing needs and the effectiveness of the proposal in providing housing units of a type actually available to and affordable by classes of persons otherwise unlawfully excluded by the challenged provisions; (4) the suitability of the site for the intensity of use proposed (considering the site's soils, slopes, woodlands, wetlands, floodplains, aquifers, natural resources, and other natural features); (5) the impact of the proposed use on the site's soils, slopes, woodlands, wetlands, floodplains, natural resources; and (5) the impact of the proposal on the preservation of agriculture and other land uses which are essential to public health and welfare.</p> <p>Where the Board of Township Supervisors fails to render this decision within the required period or fails to hold the hearing within the required period, the decision shall be deemed to have been rendered against the amendment. When a deemed decision is rendered, the Board of Township Supervisors shall give notice of this within 10 days of the last day that it could have met to render a decision.</p> <p>If the Board of Township Supervisors determines that a validity challenge has merit, then it may either accept the applicant's landowner curative amendment -- with or without revision -- or adopt an alternative amendment that will cure the alleged defects in this ordinance.</p> <p>Where an application is denied, the resulting decision must be accompanied by a finding of fact, the conclusions based on these facts, and the reason that such were drawn. This will show that the decision was reasoned, and not arbitrary. References to any provisions of any ordinance, rule, or regulation relied on for any conclusion must be made, along with the reason that the conclusion is appropriate for the particular case at hand.</p> <p>Even where an application is not denied, the resulting decision should be accompanied by a statement of findings or an opinion that is detailed enough to substantiate the involved decision.</p> <p>A copy of the final decision must be delivered or mailed to the applicant no later than the day after the date of the report.</p>
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g. The Board of Township Supervisors' decision may be appealed to any court of competent jurisdiction.

6. Deleted.

7. If Board of Township Supervisors determines that this ordinance or a portion thereof is substantially invalid or defected, then the Board of Township Supervisors may initiate a municipal curative amendment as follows:

a. The Board of Township Supervisors shall first (1) declare this ordinance or the substantially invalid portions or portions thereof to be invalid by formal action, and (2) propose to prepare a municipal curative amendment to overcome these invalidities.

b. Within 30 days of the declaration and proposal, the Board of Township Supervisors shall:

1. make findings by resolution that set forth the declared invalidity or invalidities (this may include references to specific uses which are either not permitted or not permitted in sufficient quantity, to a class or use or uses which require revision, or to the entire ordinance); and

2. begin to prepare and consider a curative amendment to the zoning ordinance that will correct these invalidities.

c. Within 180 days of the declaration and proposal, the Board of Township Supervisors shall either (1) enact this curative amendment according to the provisions of letter "B," number "4" of this section, or (2) reaffirm the validity of this ordinance.

d. During this 180-day period, Benezette Township, its Board of Township Supervisors, and its Zoning Hearing Board shall not be required to entertain or consider any substantive challenges to the validity of this ordinance (as laid out in Section 166, 'Substantive Challenges') that are based on the same invalidities declared under letter "b" above.

e. The Township may not initiate another municipal curative amendment for 36 months after the date that either the curative amendment is enacted or the validity of this ordinance is reaffirmed. However, if a new duty or obligation is imposed on the Township by a statute or a Pennsylvania Appellate Court decision, then the Township may ignore this rule in order to amend this ordinance to fulfill said duty or obligation.

ARTICLE VIII

TERMINOLOGY

The words that are defined in this article shall be interpreted as they are defined here. Words that are not defined here shall be given their usual and ordinary meaning within Benetzette Township. See Section 121 for other rules concerning the interpretation of this ordinance's wording.

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

ACCESSORY STRUCTURE - A structure detached from a principal building but located on the same lot. It serves a customarily incidental and subordinate use to the use of the lot as a whole or the lot's principal building.

ADULT ARCADE - A place to which the public is permitted or invited to come and operate coin or slug-operated still picture machines, motion picture machines, projectors, or other image-producing devices that are electronically, electrically, or mechanically controlled. In an adult arcade, some or all of these devices are maintained to show images to five or fewer persons at any one time. The images so displayed are distinguished or characterized by the depicting or describing of "specified sexual activities" or "specified anatomical areas."

ADULT BOOKSTORE or ADULT VIDEO STORE - A commercial establishment which, as one of the principal business purposes, offers for sale or rental for any form of the following:

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

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

ADULT CABARET - A nightclub, bar, or similar commercial establishment which regularly features one or more of the following:

- A. Persons who appear in the state of nudity;

- B. Live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities"; or
- C. Films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."

ADULT MOTEL - A hotel, motel, or similar commercial establishment which:

- A. Offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas"; and which advertises the availability of this adult type of photographic reproductions; or
- B. Offers sleeping rooms for rent four (4) or more times in one calendar day during five (5) or more calendar days in any continuous 30-day period.

ADULT MOTION PICTURE THEATER - A commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, or other photographic reproductions are regularly shown that are characterized by the depiction or description of "special sexual activities" or by "specified anatomical areas."

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

AGRICULTURAL SERVICE BUSINESS - Establishments primarily engaged in supplying soil preparation services, crop services, landscaping, horticultural services, veterinary and other animal services, or farm labor and management services.

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

ANIMATED SIGN - Any sign that uses movement or change of lighting to depict action or create a special effect or scene.

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

AUTOMOBILE REPAIR SHOP - A business that engages in engine rebuilding, major reconditioning of broken or damaged motor vehicles or trailers, collision repair service (including body, frame, or fender straightening or repair) vehicle painting, replacement of parts, motor service to automobiles and/or state inspections.

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

BANNER - Any sign of lightweight fabric or similar material that is permanently mounted to a pole or building by a permanent frame at one or more edges. National flags, state or municipal flags, or the official flag of any institution or business shall not be considered banners.

BAR - Premises used primarily for the sale or dispensing of liquor by the drink for on-site consumption. Food may be available for consumption on the premises as an accessory use. Such establishments are licensed by the Pennsylvania Liquor Control Board.

BEACON - Any light with one or more, beams directed into the atmosphere or directed at one or more points that are not on the same lot as the light source.

BED AND BREAKFAST ESTABLISHMENT - The provision of overnight accommodations for transient guests on a daily or weekly basis. The owner of the dwelling must live on the premises.

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

BUILDING FRONTAGE - A side of a building that faces a Street to which the building's lot is adjacent.

BUILDING MARKER - Any sign indicating the name and date of a building, as well as incidental information about its construction, which is cut into a masonry surface or made of bronze or other permanent material.

BUILDING SIGN - Any sign attached to any part of a building, as contrasted to a freestanding sign.

CANOPY SIGN - Any sign that is a part of or attached to an awning, canopy, or other fabric, plastic, or structural protective cover over a door, entrance, window, or outdoor service area. A marquee is not a canopy.

CHANGEABLE COPY SIGN - A sign or portion thereof with characters, letters, or illustrations that can be changed or rearranged without altering the face or surface of the sign. A sign on which the message changes more than eight times per day shall be considered an animated sign and not a changeable copy sign for the 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" portion of a sign and not a changeable copy sign for the purposes of this ordinance.

CHANGE OF USE - Any business or activity modification that involves changing the classification of a land use under the Standard Industrial Classification Manual from one three-

digit group to another three-digit group. Changes of occupancy or changes of ownership shall not be construed as change of use.

CHILD-ORIENTED BUSINESS - A commercial establishment which, as one of its principal business purposes, serves and/or sells to children and their families food, apparels, goods, services, play and/or entertainment.

COMMERCIAL BUILDING - A building whose principal use is a commercial use. Hence, a building with a store on the first floor and apartments on the second floor is a commercial building.

COMMERCIAL DISTRICT - A zoning district that contains the word "Commercial" in its full title.

COMMERCIAL LOT - A lot whose principal use is a commercial use.

COMMERCIAL MESSAGE - Any sign, wording, logo, or other representation that, directly or indirectly, names, advertises, or calls attention to a business, product, service, or other commercial activity.

COMMERCIAL USE - An activity involving the sale of goods or services carried out for profit. A home occupation is excluded from this category solely for the purposes of this ordinance.

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

CONDITIONAL USE -See Article 3, 'Special Exceptions and Conditional Uses.'

CORNER LOT - See Lot, Corner.

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

DAY-CARE CENTER - Any premise other than the child's own home operated for profit or not for profit, in which child day care is provided at any one time to six or more children who are not relatives of the care giver.

DWELLING UNIT - Any building or portion of a building that contains living facilities, including provisions for sleeping, eating, cooking, and sanitation, for not more than one household or family.

ERECT - To build, construct, attach, hang, place, suspend, or affix. Also, to paint a wall sign is to erect that sign.

ESCORT - A person who, for a fee, agrees or offers to act as a companion, guide, or date for another person. Furthermore, an escort is a person who, for a fee, agrees or offers to privately model lingerie or perform a striptease for another person.

ESCORT AGENCY - A person or business association who furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes. Such a business charges a fee, tip, or other consideration for the provision of escorts.

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

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

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

FLAG - For the purposes of this ordinance, this category includes the flags of the United States, the states themselves, local governments, foreign nations having diplomatic relations with the United States, institutions, businesses, and any other flag adopted or sanctioned by an elected legislative body of competent jurisdiction. Any flag that does not meet these requirements shall be considered a banner sign by this ordinance.

Floodplain - The channel and the relatively flat area adjoining the channel of a natural stream or river that has been or may be covered by floodwater. The legal borders of floodplains are usually defined in Township Ordinances.

FREESTANDING SIGN - Any sign supported by structures or supports that are placed on, or anchored in, the ground and that are independent from any building or other structure.

FRONT YARD - See Yard, Front.

FRONTAGE - That side of a lot abutting on a street, i.e., the front lot line.

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

GARAGE, COMMUNITY - A garage used exclusively for parking and storage of vehicles that are owned or operated by residents of nearby dwelling units and their guests. Such a garage is neither operated as a commercial enterprise nor available to the general public. It is operated by the residents themselves.

GARAGE, PRIVATE CUSTOMER AND EMPLOYEE - A structure that is accessory to a retail commercial or manufacturing establishment and is used primarily for the parking and storage of vehicles operated by the establishment's customers, visitors, and employees.

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

GARAGE, PUBLIC - A structure or portion thereof that is used primarily for the parking and storage of vehicles and that is available to the general public - but is not a private residential garage, private customer and employee garage, community garage, or municipal garage.

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

GOVERNMENT BUILDING - A building owned or leased by a governmental agency.

GOVERNMENTAL AGENCY - Any department, commission, independent agency, or instrumentality of the United States, the Commonwealth of Pennsylvania, Elk County, Benezette Township, or any other relevant governmental authority.

GROUP HOME- A residence occupied by unrelated persons who either by choice, referral, and/or governmental policy cannot live independently by themselves, but instead require a level of assistance, monitoring, or supervision related to individual situations. A group home may be distinguished from large-scale hospitals or institutions that serve the same purpose by the family-like setting in which its residents live.

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

HEALTH CLUB - An establishment that provides facilities exercise such as running and jogging tracks or treadmills, exercise equipment, game courts, swimming facilities, saunas, showers, massage rooms, and lockers.

HEIGHT REGULATIONS - A regulation that limits the height of a building or structure. These controls are always "maximum" height regulations in this ordinance (i.e., they specify, in feet, the greatest height that a building or structure is allowed to achieve). Such heights are measured, for all structures that are neither buildings nor signs, as the vertical distance from the finished grade to the highest point of the structure. For buildings, they are measured as the vertical distance from the finished grade to the top of the highest roof beams on a flat or shed building roof, the deck level on a mansard roof, or the ridge level on a gable, hip, or gambrel roof. Section 605, 'Computations,' explains how to measure the height of a sign.

HOME OCCUPATION - See Section 505, 'Home Occupations.'

HOSPITAL - An institution providing primary health care services and medical or surgical care to persons who are primarily inpatients that are suffering from illness, disease, injury, deformity, or other abnormal physical or mental conditions. Hospitals contain, as an integral part of the institution, related facilities -- such as laboratories, outpatient facilities, training facilities, medical offices, and staff residences.

HOTEL - A facility offering transient lodging accommodations to the general public and providing additional services such as restaurants, meeting rooms, entertainment, and recreational facilities.

HOUSEHOLD - Either a family living together, or a single person living alone, in a single dwelling unit with common access to and common use of all areas within the dwelling. See Family.

INCIDENTAL SIGN - A sign, generally informational, that has a purpose secondary to the use of the lot 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 the sign is located shall be considered incidental.

INDUSTRIAL BUILDING - A building whose principal use is an industrial use. Hence, a building that contains a factory and an employee cafeteria is an industrial building.

INDUSTRIAL DISTRICT - A district that contains the word "Industrial" in its frill title.

INDUSTRIAL LOT - A lot whose principal use is an industrial use.

INDUSTRIAL USE - A land use that engages in research and development, wholesale distribution, storage, warehousing, packaging, production, fabrication, processing, cleaning, servicing, repair, testing, and/or manufacturing activities.

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

LAND USE - See use.

LANDFILL - A disposal site in which refuse and a suitable cover materials are deposited and compacted in alternative layers of specified depth in accordance with an approved plan.

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

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

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

LOT AREA - The total area within the lot lines of a lot, excluding any Street rights-of-way. A **MINIMUM LOT AREA** RE, **EQUIVALENT** specifies the smallest area that a lot may have.

LOT COVERAGE - The percentage of a lot's area that is covered by buildings. See **Building Coverage**. **AMA XIMUMLOT COVERAGE REQUIREMENT** specifies the largest number that this percentage is allowed to reach.

LOT FRONTAGE - The length of the front lot line. A **MINIMUM LOT FRONTAGE REQUIREMENT** specifies the shortest length permitted.

LOT LINE - A line of record bounding a lot that divides it from an adjacent property, street, right-of-way, or public space. There are 5 kinds of lot lines, as specified below.

- A. **LOT LINE, FRONT** - On lots that are not corner lots, this is a lot line that abuts the right-of-way of a street. On corner lots, this is the lot line that abuts the right-of-way of the Street (or Street segment) that the main front of the principal structure located on that lot faces (or will face).
- B. **LOT LINE, REAR** - A lot line, not intersecting a front lot line, which is most closely parallel to the front lot line. In the case of triangular or otherwise irregularly shaped lots, the rear lot line is a line ten feet in length that is entirely within the lot, parallel to the front lot line, and at a maximum distance from the front lot line.
- C. **LOT LINE, SIDE** - On non-corner lots, this is any lot line other than a front or rear lot line.
- D. **LOT LINE, SIDE STREET** - On corner lots, this is a lot line that abuts the right-of-way of a street but is not a front lot line.
- E. **LOT LINE, NON-SIDE STREET** - On corner lots, this is a lot line that is not a front, rear, or side street lot line.

LOT REGULATIONS - A minimum lot area requirement, a minimum lot frontage requirement, or a minimum lot coverage requirement.

MAJOR IMPACT HOME OCCUPATION - See Section 505, 'Home Occupations.'

MANUFACTURED/MOBILE HOME - A transportable structure, single-family dwelling, contained in one (1) unit or in two (2) or more units, which is built on a permanent metal chassis and is designed to be joined into one (1) integral unit capable of again being separated for repeated towing, which arrives at a site complete and ready for occupancy except for minor and incidental unpacking and assembly operations and constructed so that it may be used with or without a permanent foundation. A Manufactured/Mobile Home is a home that meets the National Manufactured Home Construction and Safety Standards Act (42 U.S.C. Sec. 5401), commonly known as the HUD (U. S. Department of Housing and Urban Development) code.

MARQUEE - Any permanent roof-like structure projecting beyond a building or extending along and projecting beyond the wall of the building, generally designed and constructed to provide protection from the weather.

MARQUEE SIGN - Any sign attached to or made a part of a marquee.

MINOR IMPACT HOME OCCUPATION - See Section 505, 'Home Occupations.'

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

MOBILEHOME PARK - A parcel or contiguous parcels of land which has been so designated and improved that it contains two or more mobile home lots for the placement thereon of mobile homes. Also, a site containing spaces with required improvements and utilities that are leased for the long-term placement of mobile homes and that may include services and facilities for the residents.

MOTEL - An establishment providing sleeping accommodations with a majority of all rooms having direct access to the outside (i.e., guests need not pass through the main lobby of the building to get outside).

NIGHTCLUB - An establishment dispensing liquor and food. Music, dancing, or other forms of entertainment may be conducted in a nightclub.

NONCONFORMING LOT - A lot whose area or dimension was lawful prior to the adoption or amendment of a zoning ordinance, but fails to conform to the present requirements of the zoning ordinance. See Section 154, 'Nonconformities.'

NONCONFORMING STRUCTURE - See Section 154, 'Nonconformities.'

NONCONFORMING USE - See Section 154, 'Nonconformities.'

NONCONFORMITY - See Section 154, 'Nonconformities.'

NUDE MODEL STUDIO - A place where a person appears in a state of nudity or displays "specified anatomical areas" for the purpose of being observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or a form of consideration.

NUDITY or a STATE OF NUDITY - The appearance of a bare human buttock, anus, male genitals, female genitals, or female breast.

NURSERY - Land or greenhouses used to raise flowers, shrubs, and plants for sale.
OCCUPANCY PERMIT - See Section 151, 'Occupancy Permits.'

OFFICE - A space within a structure or a portion thereof intended or primarily suitable for vocational occupancy by persons or entities which perform, provide for their own benefit, or provide to others at that location, services similar to the following: professional, insurance, accounting, architectural design, engineering, management, consulting, legal, technical, and design -- or the office functions of manufacturing and warehousing businesses. However, office uses exclude retail uses, repair, any business characterized by the physical transfer of tangible

goods to customers on the premises, wholesale shipping, receiving, storage, and design showcases or any other space intended and primarily suitable for the display of goods.

OFFICE (BUSINESS OR PROFESSIONAL, BUT NOT MEDICAL OR DENTAL) - An office that does not fit the definition of "office, medical or dental" below.

OFFICE (MEDICAL OR DENTAL) - An office that provides medical, dental, chiropractic, psychiatric, or therapeutic message care to human beings on the premises.

OFFICIAL ZONING MAP OF THE TOWNSHIP -See Section 210,"Establishment of the Official Zoning Map.'

OFF-STREET LOADING BERTH - An area for the loading or unloading of cargo that is directly accessible to an access aisle, and which is not located on a dedicated street right of way.

OFF-STREET PARKING SPACE - A temporary storage area for a motor vehicle that is directly accessible to an access aisle, and which is not located on a dedicated street right of way.

ON-STREET PARKING SPACE - A temporary storage area for a motor vehicle that is located on a dedicated street right-of-way.

OUTDOOR STORAGE - The keeping of any goods, junk, material, merchandise, or vehicles in the same enclosed area for more than twenty-four hours.

PARKING LOT - An off-street, ground-level open area used for the temporary storage of motor vehicles.

PENNANT - Any temporary storage of motor vehicles. Parking lots are improved. Lightweight plastic, fabric, or other material, whether or not containing a message of any kind, suspended from a rope, wire, or string - usually in series - and designed to move in the wind.

PERMITTED ACCESSORY USE - A land use or structure that (1) is allowed by right in a zoning district, (2) is subject to the restrictions applicable to the zoning district in which it is located, and (3) is customarily incidental and subordinate to the principal use of the lot on which it is located.

PERMITTED PRINCIPAL USE - A land use or structure that (1) is allowed by right in a zoning district, (2) is subject to the restrictions applicable to the zoning district in which it is located, and (3) is the principal use of the lot on which it is located.

PERSON - Any association, company, corporation, firm, organization, or partnership, singular or plural, of any kind.

PLACE OF WORSHIP. (1) A church, synagogue, temple, mosque, or other facility that is used for prayer or worship by persons of similar beliefs. (2) A special purpose building that is architecturally designed and particularly adapted for the primary use of conducting - on a regular basis - formal religious services by a religious congregation.

PORTABLE SIGN - Any sign not permanently attached to the ground or another permanent structure, or a sign designed to be transported. This includes, but is not limited to, signs designed to be transported by means of wheels; signs converted to A- or T-frames; menu and sandwich board signs; balloons used as signs; umbrellas used for advertising; and signs attached to or painted on vehicles parked and visible from the public right-of-way, unless said vehicle is used in the normal day-to-day operations of the business.

PROJECTING SIGN -- Any sign affixed to a building or wall in such a manner that its leading edge extends more than six inches beyond the surface of such building or wall.

PROPERTY LINE See Lot Line.

PUBLIC BUILDING - Any building structure, facility, or complex used by the general public, whether constructed by the Commonwealth of Pennsylvania, Elk County, Benezette Township, a local government, a governmental instrumentality, a private individual, a corporation, a partnership, or an association. The category of "public buildings" may include assembly buildings, libraries, public eating places, schools, theaters, business buildings, factories, and industrial buildings.

PUBLIC UTILITY - A closely regulated enterprise with a franchise for providing to the public a utility service deemed necessary for the public health, safety, and welfare. Telephone, electric, natural gas, water, and sewer companies are public utilities; however, commercial wireless communications companies are not.

RESIDENTIAL BUILDING - A building whose principal use is a residential use. Hence, a building that contains 100 dwellings and a small restaurant on the bottom floor is a residential building.

RESIDENTIAL DISTRICT - A zoning district that contains the word "Residential" in its title.

RESIDENTIAL LOT - A lot whose principal use is a residential use.

RESIDENTIAL SIGN - Any sign located in a district zoned for residential uses that contains no commercial message except one advertising goods or services legally offered on the premises where the sign is located.

RESIDENTIAL USE - The use of a building or lot to provide dwelling space for human beings.

RESTAURANT - An establishment where food and drink are prepared, served, and consumed primarily within the principal building.

RIGHT-OF-WAY - (1) A strip of land that is acquired by reservation, dedication, forced dedication, prescription, or condemnation, and is intended to be occupied by a road, crosswalk, railroad, electric transmission line, oil pipeline, gas pipeline, water line, sanitary sewer line, storm sewer line, and/or other similar use; (2) generally, the right of one to pass over the property of another.

ROOFLINE - The juncture of the roof and the perimeter wall of the structure.

ROOF SIGN - Any sign erected and constructed wholly on and over the roof of building, supported by the roof structure, and extending vertically above the highest portion of the roof.

ROOF SIGN, INTEGRAL - Any sign erected or constructed as an integral or essentially integral part of a normal roof structure of any design, such that no part of the sign extends vertically above the highest portion of the roof and such that no part of the sign is separated from the rest of the roof by a space of more than six inches.

SCHOOL - Any building or part thereof which is designed, constructed, or used for education or instruction in any branch of knowledge.

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

SEMI-NUDE - A state of dress in which clothing covers no more than the genitals, the pubic region, and the areola of the female breast. Although supporting straps or devices may cover additional parts of the body, such items shall not remove a body from the state of semi-nudity.

SETBACK - The distance that must be maintained between all parts (except for walks and steps) of all buildings (except permitted accessory uses as stipulated) and a specified lot line or publicly held right-of-way. In this ordinance, this distance is sometimes expressed as a range between **Minimum SETBACK** (i.e., the smallest distance that may exist between a relevant building and a specified lot line or publicly held right-of-way) and **MAXIMUM SETBACK** (i.e., the largest distance that may exist between a relevant building and a specified lot line or publicly held right-of-way). More often, this distance is expressed simply as a minimum setback (i.e., no maximum setback is given). There are five kinds of setbacks, which differ only in that they are measured from different specified lot lines or publicly held right-of-ways.

- A. **Front Setback:** The distance that must be maintained between all parts (except for walks or steps) of all buildings (except permitted accessory uses as stipulated) and the front lot line or publicly held right-of-way. The area between the front lot line and the line formed by the main front of the principal building(s) is the **FRONT YARD**.
- B. **Side Setback** (this is applicable only to lots which are not corner lots): The distance that must be maintained between all parts (except for walks or steps) of all buildings (except permitted accessory uses as stipulated) and the side lot line on the side of the lot to which those parts are closest. The area between a side lot line and the line formed by the side of the principal building(s) that is closest to that side lot line is the **SIDE YARD**.
- C. **Rear Setback:** The distance that must be maintained between all parts (except for walks or steps) of all buildings (except permitted accessory uses as stipulated) and the rear lot line.

The area between the rear lot line and the line formed by the rear of the principal building(s) is the REAR YARD.

- D. Side Street Setback (this is applicable only to corner lots): The distance that must be maintained between all parts (except for walks or steps) of all buildings (except permitted accessory uses as stipulated) and the side street lot line or publicly held right-of-way. The area between the side street lot line and the line formed by the side of the principal building(s) that is closest to the side Street is the SIDE STREET YARD.
- E. Non-Side Street Setback (this is applicable only to corner lots): The distance that must be maintained between all parts (except for walks or steps) of all buildings (except permitted accessory uses as stipulated) and the non-side street lot line. The area between the non-side street lot line and the line formed by the side of the principal building(s) that is closest to the non-side street lot line is the NON-SIDE STREET YARD.

SEXUAL ENCOUNTER CENTER - A business or commercial enterprise that, as one of its primary business purposes, offers for any form of consideration:

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

SEXUALLY ORIENTED BUSINESS - An adult arcade, adult bookstore, adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, escort agency, nude model studio, or sexual encounter center.

SHOPPING CENTER - A group of commercial establishments that is planned, constructed, and managed as a total entity, and that has on-site customer and employee parking, provisions for the delivery of goods that are separate from customer accesses, aesthetic considerations, and protection from the elements, landscaping, and signage -- all in accordance with an approved plan.

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

SIDE YARD - See Yard, Side.

SIDEWALK - A paved, surfaced, or leveled area that is parallel and usually separate from the street. Sidewalks are used as pedestrian walkways.

SIGN - Any device, fixture, placard, or structure that uses any color, form, graphic, illumination, symbol, or writing to advertise, announce the purpose of, or identify the purpose of a person or entity, or to communicate information of any kind to the public.

SPECIAL EXCEPTION USE - A use that is allowed in a particular zoning district subject to the approval of the zoning hearing board, as specified by Article 3 of this ordinance. Such uses are authorized by Section 603 of the Pennsylvania Municipalities Planning Code.

SPECIFIED ANATOMICAL AREAS - The male genitals, female genitals, female breasts, or parts thereof.

SPECIFIED SEXUAL ACTIVITIES - This category includes all of the following:

- A. The fondling or other erotic touching of human genitals, pubic regions, buttocks, anuses, or female breasts;
- B. Sex acts, actual or simulated, including intercourse, oral copulation, or sodomy;
- C. Masturbation, actual or simulated; or
- D. Excretory functions as part of or in connection with any of the activities set forth in "A" through "C" above.

STREET - Any vehicular way that, (1) is an existing state, county, or municipal roadway; (2) is shown upon a plat approved pursuant to law; (3) is approved by other official action; or (4) is shown on a plat duly filed and recorded in the office of the county recording officer prior to the appointment of a planning board and the grant to such board of the power to review plats. A street includes all land between the street lines, no matter whether it's improved or unimproved.

STREET FRONTAGE - The distance for which a lot line of a lot adjoins a public street, from one lot line intersecting said street to the furthest distant lot line intersecting the same street.

STRUCTURE - Anything constructed or erected that was lawful prior to the adoption or amendment of a zoning ordinance, and whose use requires (either directly or indirectly) a fixed location on the land.

SUSPENDED SIGN - A sign that is suspended from the underside of a horizontal plane surface and is supported by such surface.

TAVERN - An establishment used primarily for the serving of liquor by the drink to the general public, but where food and/or packaged liquors may also be served or sold as an accessory use. Such establishments are licensed by the Pennsylvania Liquor Control Board.

TEMPORARY SIGN - Any sign that is used only temporarily and is not permanently mounted. Regardless of any temporary characteristics they may have, residential signs shall not be classified as temporary signs for the purposes of this ordinance.

TEMPORARY USE - A use of a limited duration that is to be discontinued after the expiration of a time period. See Article 4, "Temporary Uses."

TRAILER HOME - A transportable structure, single-family dwelling, contained in one (1) unit or in two (2) or more units, which is built on a permanent metal chassis and is designed to be joined into one (1) integral unit capable of again being separated for repeated towing, which arrives at a site complete and ready for occupancy except for minor and incidental unpacking and assembly operations and constructed so that it may be used with or without a permanent foundation. A trailer home is a home that was constructed prior to 1976 and does not meet the National Manufactured Home Construction and Safety Standards Act (42 U.S.C. Sec. 5401), commonly known as the HUD (U.S. Department of Housing and Urban Development) code.

TRANSFER OF OWNERSHIP OR CONTROL - (1) The sale, lease, or sublease of a property, building, or business; (2) the transfer of securities which constitute a controlling interest in a property, building, or business; or (3) the establishment of a trust, gift, or similar legal device which transfers the ownership or control of a property, building, or business - excepting a transfer by bequest or other operation of law used upon the death of the person possessing the ownership or control.

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

VARIANCE - Permission to depart from the literal requirements of a zoning ordinance. See Section 157, 'Variances.'

WALL SIGN - Any sign attached parallel to, but within six inches of, a wall, painted on the wall surface of, or erected and confined within the limits of an outside wall of any building or structure, which is supported by such wall or building, and which displays only one sign surface.

WAREHOUSE - A building used for the storage of goods and materials. This does not include "self-service storage facilities."

WINDOW SIGN - Any sign, pictures, symbol, or combination thereof designed to communicate information about an activity, business, commodity, event, sale, or service that is placed inside a window or upon the window panes of glass and is visible from the exterior of the window.

YARD - An open space that lies between the principal building or buildings and the nearest lot line.

YARD, FRONT - The area between the front lot line or right-of-way and the line formed by the front of the principal building(s).

YARD, NON-SIDE STREET (this is applicable only to corner lots) - The area between the non-side street lot line or right-of-way and the line formed by the side of the principal building(s) that is closest to the non-side street lot line.

YARD, REAR - The area between the rear lot line and the line formed by the rear of the principal building(s).

YARD, SIDE (this is applicable only to lots which are not corner lots) - The area between a side lot line and the line formed by the side of the principal building(s) that is closest to that side lot line.

YARD, SIDE STREET (this is applicable only to corner lots) - The area between the side Street lot line or right-of-way and the line formed by the side of the principal building(s) that is closest to the side street.

ZONING DISTRICT - A specifically designated area or district in a municipality within which uniform regulations and requirements govern the use, placement, spacing, and size of land and buildings. See Sections 200 through 210.

ZONING HEARING BOARD - A multiple member board, appointed by the Benezette Board of Township Supervisors that hears appeals and challenges under Section 909.1(a) of the Pennsylvania Municipalities Planning Code. See Section 705, 'The Zoning Hearing Board.'

ZONING OFFICER - The administrative officer designated to administer the zoning ordinance and issue zoning permits. See Section 700, 'The Zoning Officer.'

ZONING PERMIT - See Section 148, 'Zoning Permits.'

APPENDIX

The Signature Page

This Ordinance was enacted by Benezette Township on _____
and shall take effect from that date.

ATTEST:

Benezette Township

Secretary

President