



**FINAL DRAFT – JANUARY 9, 2026**

# **New Garden Township Zoning Ordinance**

**Chapter 200 of the New Garden Township Municipal Code**

**Enacted:  
Effective:**

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## Article I – Administration

### §200-101 Title

This Ordinance shall be known and may be cited as the “New Garden Township Zoning Ordinance”, hereinafter referred to as the “Ordinance” or “this Chapter.”

### §200-102 Purpose and Objectives

- A. This Ordinance is designed to:
- 1) Promote, protect, and facilitate Public health, safety, and general welfare of the Township and its residents;
  - 2) Preserve and protect Environmental Sensitive Areas of the Township including Floodplains, Prime Agricultural Land, Steep Slopes, Wetlands, and Woodlands;
  - 3) Accommodate reasonable overall community growth, including population and employment growth, and opportunities for Development of a variety of residential Uses and nonresidential Uses; and
  - 4) Provide for the use of land within the municipality for housing of various dwelling types encompassing all basic forms of housing.
- B. The following community development objectives represent the broad intent of this Ordinance, and reflect the objective of the New Garden Township Comprehensive Plan:
- 1) Focus infill and Redevelopment in areas with existing infrastructure.
  - 2) Promote a variety of housing options.
  - 3) Encourage mixed-use Development along corridors and in Toughkenamon Village.
  - 4) Enhance the Protection and adaptive reuse of Historic Structures.
  - 5) Reduce conflicts between residential areas and agricultural and Industrial areas.
  - 6) Encourage land use in targeted areas along corridors that will attract economic development opportunities.
  - 7) Support more walkable and accessible land use patterns.

### §200-103 Authority

- A. This Ordinance is enacted and ordained under the grant of powers by the General Assembly of the Commonwealth of Pennsylvania, Act 247, “The Pennsylvania Municipalities Planning Code,” July 31, 1968, as amended, hereinafter referred to as “MPC”.
- B. *Disclaimer.* It is recognized that: the Act of June 22, 1937 (P.L. 1987, NO. 394) known as “The Clean Streams Law”; the Act of May 31, 1945 (P.L. 1198, No 418) known as the “Surface Mining Conservation and Reclamation Act”; the Act of April 27, 1966 (1st Special Session, P.L. 31, No. 1) known as “The Bituminous Mine Subsidence and Land Conservation Act”; the Act of September 24, 1968 (P.L. 1040, No. 318) known as the “Coal Refuse Disposal Control Act”; the Act of December 19, 1984 (P.L. 1140, No. 223) known as the “Non-coal Surface Mining Conservation and Reclamation Act”; the Act of June 30, 1981 (P.L. 128, No. 43) known as the “Agricultural Area Security Law”; the Act of June 10, 1982 (P.L.

454, No. 133) entitled “An act protecting agricultural operations from nuisance suits and ordinances under certain circumstances”: and the Act of May 20, 1993 (P.L. 12, No 6) known as the “Nutrient Management Act” preempt Zoning ordinances. Therefore, suggestions, recommendations, options or directives contained herein are intended to be implemented only to the extent that they are consistent with and do not exceed the requirements of those Acts. Nothing contrary to those Acts shall be mandated by this Ordinance.

#### §200-104 Jurisdiction

This Ordinance shall apply to all properties and uses located within the corporate limits of New Garden Township, Pennsylvania, hereinafter referred to as “Township.”

#### §200-105 Applicability

- A. The terms of this Ordinance shall be applied in consideration of the New Garden Township Comprehensive Plan.
- B. Inapplicability of Ordinance to Township. This Ordinance shall not apply to the Uses, lands, and Structures applicable to the Township’s ownership, use, and/or operation to promote, protect, and facilitate the Public health, safety, and general welfare of the residents of New Garden Township.
- C. The Township’s Subdivision and Land Development Ordinance, shall provide design standards and other regulations pertaining to the Development of land, whereas the Zoning Ordinance provides parameters on the use of land. Both documents correlate with each other to provide the overall regulations administered by the Township.

#### §200-106 Interpretation

- A. The regulations specified within this Ordinance shall be considered minimum regulations and all provisions shall be applied uniformly for each class of Uses or Structures as prescribed by Section 605 of the PA Municipalities Planning Code.
- B. To determine the extent of the restriction upon the use of the property, the language shall be interpreted, where doubt exists as to the intended meaning of the language written and enacted by the Township, in favor of the Owner and against any implied extension of the restriction.
- C. In the event of conflicts between the provisions of this Chapter and any other ordinance or regulation, the more restrictive provisions shall apply.

#### §200-107 Severability

Should a court of competent jurisdiction declare any Article, Section, or provision of this Ordinance invalid or unconstitutional, this Decision shall not affect the validity or constitutionality of this Ordinance as a whole, or any part thereof, other than the part so declared to be invalid or unconstitutional.

### §200-108 Zoning Officer Duties and Powers

- A. Zoning Officer. The provisions of this Ordinance shall be administered by the Township's Zoning Officer. The Zoning Officer, who shall not hold any elected office in the Township, shall be appointed by the Township Board of Supervisors. The Zoning Officer shall meet qualifications established by the Board and shall be able to demonstrate to the satisfaction of the Board a working knowledge of municipal Zoning.
- B. Duties and Powers. The Zoning Officer shall administer this Ordinance in accordance with its literal terms. The Zoning Officer may institute civil enforcement proceedings as a means of enforcement when acting within the scope of their employment by the Township.

### §200-109 Zoning Permit

- A. General.
- 1) A Zoning Permit shall be required prior to the following activities:
    - a) The Construction, Alteration, Enlargement or relocation of any Building, Structure, land or portion thereof;
    - b) The Use or change in the Use of a Building, Structure, or land;
    - c) The Alteration or Expansion of a Nonconforming Lot, Structure, or Use as regulated under [Article XI, Nonconformities](#), and as defined in [Article II, Definitions](#), of this Chapter;
    - d) Land Disturbance Activities as defined in [Article II, Definitions](#), of this Chapter;
    - e) The Construction, placement, installation, Alteration, relocation or replacement of a Sign as specified in [Article X, Signs](#), of this Chapter;
    - f) Installation or Alteration of Driveways or Parking Lots; and
    - g) Erecting a Temporary Use, Structure, or Building.
  - 2) No Zoning permit shall be required for Maintenance or Repair of any Building or Structure, provided such Maintenance and Repair does not change the Use or the exterior dimensions of the Building or Structure or otherwise violate the provisions of this Ordinance.
  - 3) It shall be unlawful for any Person to commence work for the Construction or Alteration of any Building or Structure or to engage in the change of Use, until a Zoning permit has been duly issued.
    - a) Where a permit is required, but the work is commenced or the Use is commenced or changed prior to obtaining such permit, the fees set by ordinance or resolution of the Township Board of Supervisors for such permit shall be doubled.
    - b) The doubling of the permit fee shall be required to reflect the additional expense incurred by the Township resulting from the need to inspect the property, issue any enforcement notices and/or process the application as soon as it is received.
    - c) The payment of such increased permit fee shall not relieve any Person from complying with all requirements of this Ordinance or any other applicable Township ordinances or from any penalties or enforcement actions authorized by this Ordinance.
  - 4) Municipal Liability. The granting of a Zoning permit for the Construction and/or use of a Structure, Building or Lot shall not constitute a representation, guarantee or warranty of any kind or nature by New Garden Township, or an official or employee, thereof, of the safety of any Structure,

Building, use or other proposed plan from cause whatsoever, and shall create no liability upon or a course of action against such Public official or employee for any damage that may be pursuant thereto.

B. Application.

- 1) Every application for a Zoning permit shall contain, in addition to other applicable requirements that may be specified in this Ordinance, the following information:
  - a) The application shall be made by the Owner or lessee of any Building or Structure, or the agent of either; provided, however, that if the application is made by a Person other than the Owner or lessee, it shall be accompanied by a written authorization of the Owner or the qualified Person making an application, that the proposed work is authorized by this Owner. The full names and addresses of the Owner, lessee, Applicant, and of the responsible officers, if the Owner or lessee is a corporate body, shall be stated in the application.
  - b) The Property Identification Number as it appears on the latest tax records.
  - c) The required fee as established under [§200-110, Fees](#), of this Article.
  - d) A site plan as required by the Zoning Officer.
- 2) The Zoning permit application and all supporting documentation shall be made in duplicate. On the issuance of a Zoning permit, the Township shall return one copy of all filed documents to the Applicant.

C. Review and Issuance.

- 1) The Township shall after the filing of a complete and properly prepared application, either issue or deny a Zoning permit. If a Zoning permit is denied, the Township shall state in writing to the Applicant the reasons for such denial, and the Applicant shall be informed of his right to Appeal to the Zoning Hearing Board.
- 2) The Zoning Officer may call upon other Township staff and/or Township-appointed consultants in the review of submitted materials for applications.
- 3) No Zoning permit shall be issued unless the proposed activity is in full conformity with all the provisions of this Ordinance, and the following:
  - a) Any conditions imposed upon the site or upon the Use by the Zoning Hearing Board or Board of Supervisors;
  - b) Any recorded Subdivision or Land Development Plan; and
  - c) The requirements of other applicable Township ordinances and codes.
- 4) No Zoning permit shall be issued for any Structure upon a Lot without access to a Street.
- 5) Conditions of Permit.
  - a) No Zoning permit shall be issued until the required fees prescribed under [§200-110, Fees](#), of this Article shall be paid to the Township. The payment of fees under this Article shall not relieve the Applicant or holder of said Zoning permit from payment of other fees that may be required by this Ordinance or by any other ordinances or law.
  - b) All work or uses shall conform to the approved application and plans for which the Zoning permit has been issued, as well as the approved site plan or Land Development Plan.

- 6) Every Zoning permit shall expire after one year from the date of issuance. If no Zoning Amendments or other codes or regulations affecting subject property have been enacted in the interim, the Township may authorize in writing the extension of an additional six months, following which no further work is to be undertaken without a new Zoning permit. Such request shall be made in writing to the Zoning Officer.
- 7) The Applicant shall prominently display all approved Zoning permit on the subject property during Construction, renovation, reconstruction, Repair, remodeling, or the conduct of other site improvements. The Applicant shall display the Zoning permit within five days of permit issuance or prior to the commencement of actual work on the site, whichever occurs first. The Applicant shall continuously display the Zoning permit until the site receives its Certificate of Use.
- 8) Revocation of Permit. A Zoning permit for any Structure or Use shall be revoked by the Zoning Officer if the holder of such permit has failed to comply with the requirements of this Ordinance or with any conditions attached to the issuance of the permit. Upon revocation of a permit, the holder may also be subject to the enforcement remedies and penalties provided by this Ordinance, by the other provisions of Township enacted ordinances, and by state and federal law.

D. Temporary Uses.

- 1) The Township recognizes that there are certain uses, of a temporary nature, which are generally beneficial to the Township and its residents, such as:
  - a) The erection of a seasonal tent from which products are sold prior to holidays.
  - b) Temporary Signs per [Article X, Signs](#), of this Chapter.
  - c) Dumpsters or storage pods.
  - d) Construction job site office Trailers.
- 2) It is the intention of the Township to allow such temporary uses in accordance with the requirements of this Ordinance.
- 3) Where the proposed Temporary Use is permitted within the Zoning district, the Applicant shall apply to the Zoning Officer for a Zoning permit. Any Zoning permit shall specify the dates upon which the temporary Use may be operated, the temporary Structures which may be erected, and the Temporary Signs which may be erected.
- 4) The Applicant for a Temporary Use, shall present evidence of the following:
  - a) Adequate off-street parking is provided.
  - b) Any signs are temporary in nature and do not exceed the number or area which would be permitted for a permanent use.
  - c) Other facilities, including but not limited to sewage disposal facilities and trash disposal are available for Persons reasonably anticipated to attend the Temporary Use.
  - d) A plan for addressing traffic to be generated by the Temporary Use. If necessary, the Applicant shall arrange for the provision of fire, police or other persons to direct traffic to the temporary off-street parking facilities.
  - e) The Temporary Use shall contribute to the welfare of the Township and its residents, and shall not adversely affect the health, safety or welfare of adjoining residents or the Uses Permitted within the zone in which the Temporary Use is proposed.

- 5) Failure to cease operation on the date specified in the temporary Zoning permit or failure to remove all Temporary Structures and Temporary Signs shall constitute a violation of this Ordinance.

#### §200-110 Fees

- A. The Board of Supervisors may, by resolution, establish fees for the administration of this Ordinance. All fees shall be determined by a schedule that is made available to the Public. The Board of Supervisors may reevaluate the fees schedule and make necessary Alterations to it. Such Alterations shall not be considered an Amendment to this Ordinance and may be adopted at any Public Meeting of the Board of Supervisors.
- B. Such fees shall be payable to the Township. Until all applicable fees, charges and expenses have been paid in full, the applications shall be considered incomplete, and no action shall be taken on any application or Appeal.

#### §200-111 Violations and Penalties

- A. Any Person, partnership or corporation who or which has violated the provisions of this Ordinance, as amended, upon being found liable thereof in a civil enforcement proceeding commenced by the Township, shall pay a judgment of not less than \$100 but no more than \$500 plus court costs, including reasonable attorney fees incurred by the Township as a result thereof. No judgment shall commence or be imposed, levied, or payable until the date of the Determination of a violation by the District Justice. If the defendant neither pays nor timely Appeals the judgment, the Township may enforce the judgment pursuant to the applicable rules of civil procedure. Each day that a violation continues shall constitute a separate violation, unless the district justice determining that there has been a violation further determines that there was a good faith basis for the Person, partnership or corporation violating the ordinance to have believed that there was no such violation, in which event there shall be deemed to have been only one such violation until the fifth day following the date of the Determination of a violation by the district justice and thereafter each day that a violation continues shall constitute a separate violation. All judgments, costs, and reasonable attorney fees collected for the violation of this Ordinance shall be paid over to Township.
- B. The Court of Common Pleas, upon petition, may grant an order to stay, upon cause shown, tolling the per diem fine, pending a final adjudication of the violation and agreement.
- C. Nothing contained in this Ordinance shall be construed or interpreted to grant any Person or entity other than the Township the right to commence any action for enforcement of this Ordinance.

#### §200-112 Appeals

Appeals for those matters for which the zoning hearing board has jurisdiction as enumerated in section 113C below shall file and appeal with the New Garden Township Zoning Hearing Board on a form

designated for that purpose and shall pay the filing fee established by separate resolution of the Board of Supervisors. The form from time to time may be modified without amendment to this ordinance but shall include at least all the following information:

- 1) The name, address, and contact information of the Owner of the Real Estate to be affected by such proposal.
- 2) A brief description and location of the Real Estate to be affected by such proposal, including the Property Identification Number.
- 3) A statement of the present Zoning classification of the Real Estate in question, the improvements thereon, and the present Use.
- 4) A statement of the Article of this Ordinance under which the Appeal or application is filed and reasons why it should be granted or a statement of the Article of this Ordinance governing the situation in which the alleged erroneous ruling is being Appealed and reasons for the Appeal.  
An accurate description of the present improvements and the Additions intended to be made under this application, indicating the size and use of such proposed improvements and general Construction thereof. In addition, where appropriate, there shall be attached a site plan of the Real Estate to be affected.

#### §200-113 Zoning Hearing Board

##### A. Creation and Appointment.

- 1) Members. The Board of Supervisors does hereby create a Zoning Hearing Board that shall consist of three members who shall be residents of the Township. Members of the Zoning Hearing Board shall be appointed by resolution of the Board of Supervisors. Their terms of office shall be three years and shall be so fixed that the term of office of one member shall expire each year. Members of the Zoning Hearing Board shall hold no other office, elected, or appointed, in the Township.
- 2) Alternates. Pursuant to Article 903(b) of the MPC, the Township may appoint by resolution at least one but no more than three residents of the Township to serve as alternate members of the Zoning Hearing Board. The term of office of an alternate member shall be three years. Alternates shall hold no other office, elected, or appointed, in the Township.
- 3) Removal of Members. Any Zoning Hearing 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 Supervisors which appointed the member, taken after the member has received 15 days advance notice of the intent to take such a vote. A Hearing shall be held in connection with the vote if the member shall request it in writing.
- 4) Organization of Zoning Hearing Board. The Zoning Hearing Board shall elect from its own membership its officers who shall serve annual terms as such and may succeed themselves. For the conduct of any Hearing and the taking of any action, a quorum shall be not less than a majority of all the members of the Zoning Hearing Board. The Zoning Hearing Board may appoint a Hearing officer from its own membership to conduct any Hearing on its behalf, and the parties may waive further action by the Zoning Hearing Board as provided in Section 908 of the Pennsylvania Municipalities Planning Code. The Zoning Hearing Board may make, alter, and rescind rules and forms for its procedure, consistent with ordinances of the Township and laws of the

Commonwealth of Pennsylvania. The Zoning Hearing Board shall keep full Public records of its business and shall submit a Report of its activities to the Board of Supervisors as requested.

- 5) Expenditures for Services. Within the limits of funds appropriated by the Board of Supervisors, the Zoning Hearing Board may employ or contract for secretaries, clerks, legal counsel, consultants, and other technical and clerical services. Members of the Zoning Hearing Board may receive compensation for the performance of their duties, as may be fixed by the Board of Supervisors, but in no case shall it exceed the rate of compensation authorized to be paid to members of the Board of Supervisors.
- B. Hearings. A Hearing conducted by the Zoning Hearing Board shall be held within 60 days from the date of the Applicant's request unless the Applicant has agreed in writing to an extension of time. The Zoning Hearing Board shall conduct Hearings and make Decisions in accordance with the following requirements.
- 1) Notice. Public Notice shall be given, and written notice shall be given to the Applicant, the Township Secretary, the Township Planning Commission, and to any Person who has made timely request for the same. Written notices shall be given at such time and in such a manner as shall be prescribed by the Zoning Hearing Board and the requirements of the MPC, provided that the notices conform to the following:
    - a) Written notices shall state the time, date, and location of the proposed Hearing, along with a description of the nature of the of the matter to be considered.
    - b) Written notice shall be conspicuously posted on the affected Tract of land at least seven calendar days prior to the Hearing.
    - c) At least seven Business Days prior to the Hearing, written notice shall be provided by U.S. Mail to all Landowners whose property border is 200 feet from the border of the affected tract of land. Provided, however, that failure to give the notice as required by this Article shall not invalidate any action taken by the Zoning Hearing Board.
  - 2) Conduct of Hearing. The Hearings shall be conducted by the Zoning Hearing Board, or the Zoning Hearing Board may appoint any member or an independent attorney as a Hearing officer. The Decision, or where no Decision is called for, the findings shall be made by the Zoning Hearing Board; however, the appellant or the applicant, as the case may be, in addition to the municipality, may, prior to the decision of the hearing, may waive Decision or findings by the Zoning Hearing Board and accept the Decision or findings of the Hearing officer as final.
    - a) The parties to the Hearing shall be New Garden Township and any Person affected by the application who has made timely appearance of record before the Zoning Hearing Board, and any other Person including civic, or community organizations permitted to appear by the Zoning Hearing Board. The Zoning Hearing Board shall have the power to require that all Persons who wish to be considered parties enter appearances in writing.
    - b) The chairperson or acting chairperson of the Zoning Hearing Board or the Hearing officer presiding shall have the power to administer oaths and issue subpoenas to compel the attendance of witnesses and the production of relevant documents and papers, including witnesses and documents requested by the parties.

- c) The parties shall have the right to be represented by counsel and shall be afforded the opportunity to respond and present evidence and argument and cross-examine adverse witnesses on all relevant issues.
  - d) Formal rules of evidence shall not apply, but irrelevant, immaterial, or unduly repetitious evidence may be excluded.
  - e) The Zoning Hearing Board or the Hearing officer shall keep a stenographic record of the proceedings. The appearance fee for a stenographer shall be shared equally by the Applicant and the Zoning Hearing Board. The cost of the original transcript shall be paid by the Zoning Hearing Board if the transcript is ordered by the Zoning Hearing Board or Hearing Officer. It shall be paid by the Person appealing from the Decision of the Zoning Hearing Board if such Appeal is made, and in either event, the cost of additional copies shall be paid by the Person requesting such copy or copies. In other cases, the party requesting the original transcript shall bear the cost thereof.
  - f) The Zoning Hearing Board or the hearing officer shall not communicate, directly or indirectly, with any party or their representatives in connection with any issue involved except upon notice and opportunity for all parties to participate, shall not take notice of any communication, Reports, staff memoranda, or other materials unless the parties are afforded an opportunity to contest the material so noticed and shall not inspect the site or its surroundings after commencement of hearings with any party or their representative unless all parties are given an opportunity to be present.
- 3) Decision.
- a) The Zoning Hearing Board or the Hearing officer shall render a written Decision or, when no Decision is called for, make written findings on the application within 45 days after the last Hearing before the Zoning Hearing Board or Hearing officer.
  - b) Where the application is contested or denied, each Decision shall be accompanied by findings of fact and conclusions based thereon together with the reasons therefore. Conclusions based on any provisions of this act or of any ordinance, rule, or regulation shall contain a reference to the provision relied on and the reasons why the conclusion is deemed appropriate in the light of the facts found.
  - c) If the Hearing is conducted by a Hearing officer, and there has been no stipulation that the officer's Decision or findings are final, the Zoning Hearing Board shall make its Report and recommendations available to the parties within 45 calendar days, and the parties shall be entitled to make written representations thereon to the Zoning Hearing Board prior to final Decision or entry of findings, and the Zoning Hearing Board's Decision shall be entered no later than 30 days after the report of the Hearing officer.
  - d) Except for challenges filed under Section 916.1 of the Pennsylvania Municipalities Planning code, where the Zoning Hearing Board fails to render the decision within the period required by this subsection, or fails to commence, conduct, or complete the required Hearing as provided for in section 10908(1.2), the Decision shall be deemed to have been rendered in favor of the Applicant unless the Applicant has agreed in writing to an extension of time.

- e) When a Decision has been rendered in favor of the Applicant because of the failure of the Zoning Hearing Board to meet or render a Decision as hereinabove provided, the Zoning Hearing Board shall give Public Notice of the said Decision within 10 days from the last day it could have met to render a Decision in the same manner as provided in Subsection 10908(1) of the MPC. If the Zoning Hearing Board fails to provide such notice, the Applicant may do so. Nothing in this subsection shall prejudice the right of any party opposing the application to appeal the decision to a court of competent jurisdiction.
  - f) A copy of the final Decision, or where no Decision is called for, of the findings shall be delivered to the Applicant personally or mailed to them not later than the next Business Day following its date. To all other Persons who have filed their name and address with the Zoning Hearing Board not later than the last day of the Hearing, the Zoning Hearing Board shall provide by mail or otherwise, brief notice of the Decision or findings and a statement of the place at which the full Decision or findings may be examined.
- C. Jurisdiction. The Zoning Hearing Board shall have exclusive Jurisdiction to hear and render final adjudications in the following matters:
- 1) Substantive challenges to the validity of any land Use ordinance, except those brought before the Board of Supervisors pursuant to Sections 609.1 and 916.1 of the MPC.
  - 2) Appeals from the Determination of the Zoning Officer, including, but not limited to, the granting or denial of any permit, or failure to act on the application therefore, the issuance of any cease-and-desist order or the registration or refusal to register any Nonconforming Use, Structure or Lot.
  - 3) Appeals from a Determination by the Zoning Officer or the Township Engineer with reference to the administration of any Floodplain or Flood hazard ordinance or such provisions within land use ordinances.
  - 4) Applications for Variances from the terms of the Zoning Ordinance and flood hazard ordinance or such provisions within a land use ordinance pursuant to Article 910.2 of the MPC.
  - 5) Applications for Special Exceptions under this Ordinance pursuant to Article 912.1 of the MPC.
  - 6) Appeals from the Zoning Officer's Determination under Article 916.2 of the MPC.
  - 7) Appeals from the Determination of the Zoning Officer or the Township Engineer in the administration of any land use ordinance or provision thereof with reference to sedimentation and erosion control and stormwater management insofar as the same relate to Development not involving applications under Article V or VII of the MPC.
- D. Zoning Hearing Board Functions.
- 1) Variances. The Zoning Hearing Board shall hear requests for Variances where it is alleged that the provisions of this Ordinance inflict unnecessary hardship upon the Applicant. The Zoning Hearing Board may grant a Variance provided the following findings are made where relevant in each case.
    - a) That there are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of Lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property, and that the unnecessary hardship is

due to such conditions, and not the circumstances or conditions generally created by the provisions of this Ordinance in the Zoning district in which the property is located.

- b) That because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of this Ordinance and that the authorization of a Variance is, therefore, necessary to enable the reasonable use of the property.
  - c) That such necessary hardship has not been created by the appellant.
  - d) That the Variance, if authorized, shall not alter the essential character of the Zoning district in which the property is located, nor substantially or permanently impair the appropriate Use or Development of an adjacent property, nor be detrimental to the Public welfare.
  - e) That the Variance, if authorized, shall represent the minimum Variance that shall afford relief and shall represent the least modification possible of the regulation in issue.
  - f) In granting any Variance, the Zoning Hearing Board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of this act and this Ordinance.
  - g) Township Planning Commission Review. The Township Planning Commission shall be provided with an opportunity to review and provide comments and recommendations on a Zoning Variance application. However, such review and recommendation shall not delay the convening of a Hearing on the application to be heard by the Zoning Hearing Board and the Applicant shall be provided reasonable notice of the date, time, and location of the meeting of the Planning Commission where the application will be reviewed. The recommendation by the Planning Commission shall be presented to the Board of Supervisors prior to the date of the first hearing before the Zoning Hearing Board. If the timing for such recommendation is such that the recommendation to the Board of Supervisors before the first hearing is not possible, the Planning Commission may, only in that event, make a recommendation directly to the Zoning Hearing Board.
- 2) Special Exceptions. See [§200-115, Special Exception Use Procedures](#).
- E. Parties Appellant Before Zoning Hearing Board. Appeals under this section may be filed with the Zoning Hearing Board in writing by the Landowner affected or any officer or agency of the Township, or any Person aggrieved. Requests for a Variance under **Subsection D.1** above and for Special Exception Uses under [§200-115, Special Exception Use Procedures](#), of this Ordinance may be filed with the Zoning Hearing Board by any Landowner or any tenant with the permission of such Landowner.
- F. Time Limitations. The time limitations for raising certain issues and filing certain proceedings with the Zoning Hearing Board shall be the following:
- 1) No Person shall be allowed to file any proceeding with the Zoning Hearing Board later than 30 days after any application for Development, preliminary or final, has been approved by an appropriate Township officer, agency, or body if such proceeding is designed to secure reversal or to limit the approval in any manner unless such Person alleges and proves that he had no notice,

knowledge, or reason to believe that such approval had been given. If such Person has succeeded to his interest after such approval he shall be bound by the knowledge of his predecessor in interest.

- 2) The failure of anyone other than the Landowner to appeal from an adverse Decision on a tentative plan, or from an adverse Decision by a Zoning Officer on a challenge to the validity of this Ordinance or Zoning Map shall preclude an Appeal from a final approval except in the case where the final submission substantially deviates from the approved tentative approval.
- 3) All appeals from determinations adverse to the landowners shall be filed by the landowner within 30 days after notice of the determination is issued.

G. Stay of Proceedings.

- 1) Upon filing of any proceeding with the Zoning Hearing Board and during its pendency before the Zoning Hearing Board all Land Development pursuant to any challenged ordinance, order or approval of the Zoning Officer or of any agency or body, and all official action thereunder shall be stayed unless the Zoning Officer or any other appropriate agency or body certifies to the Zoning Hearing Board facts indicating that such stay would cause imminent peril to life or property. In that case the Development or official action shall not be stayed otherwise than by a restraining order, which may be granted by the Zoning Hearing Board or by the court having jurisdiction of Zoning Appeals on petition after notice to the Zoning Officer or other appropriate agency or body. When an application for Development, preliminary or final, has been duly approved and proceedings designed to reverse or limit the approval are filed with the Zoning Hearing Board by Persons other than the Applicant, the Applicant may petition the court having jurisdiction of Zoning Appeals to order such Persons to post a bond as a condition to continuing the proceedings before the Zoning Hearing Board.
- 2) After the petition is presented, the court shall hold a hearing to determine if the filing of the appeal is frivolous. At the hearing, evidence may be presented on the merits of the case. It shall be the burden of the applicant for a bond to prove the appeal is frivolous. After consideration of all evidence presented, if the court determines that the appeal is frivolous, it shall grant the petition for a bond. The right to petition the court to order the appellants to post bond may be waived by the appellee, but such waiver may be revoked by him if an appeal is taken from a final decision of the court
- 3) The question of whether such petition should be granted and the amount of the bond shall be within the sound discretion of the court. An order denying a petition for bond shall be interlocutory. An order directing the responding party to post a bond shall be interlocutory.

[§200-114 Board of Supervisors](#)

The Board of Supervisors shall have exclusive jurisdiction to and render final adjudications in the following matters:

- 1) All applications for approvals of planned residential development under Article VII of the MPC pursuant to the provisions of Section 702 of the MPC.

- 2) All applications pursuant to Section 508 of the MPC, for approval of Subdivisions or Land Developments under Article V of the MPC.
- 3) Applications for Conditional Use under the express provisions as specified under [§200-116, Conditional Use Procedures](#), of this Ordinance.
- 4) Applications for a curative Amendment to this Ordinance or pursuant to Sections 609.1 and 916.1(a) of the MPC.
- 5) All petitions for Amendments to land use ordinances, pursuant to the procedures set forth in Article 609 of the MPC.
- 6) Appeals from the Determination of the Zoning Officer or the Township Engineer in the administration of any land use ordinance or provisions thereof with reference to sedimentation and erosion control and stormwater management insofar as the same relate to applications for Land Development under Articles V and VII of the MPC. Where such Determination relates only to Development not involving an Article V or VII application, the Appeal from such Determination of the Zoning Officer or the Township Engineer shall be to the Zoning Hearing Board pursuant to this Article. Where the applicable land use ordinance vests jurisdiction for final administration of Subdivision and Land Development applications in the Planning Commission, all Appeals from Determinations under this subsection shall be to the Planning Commission, and all Appeals from the Decision of the Planning Commission shall be to court.
- 7) Applications for a special encroachment permit pursuant to section 405 and applications for a permit pursuant to section 406 of the MPC.

#### [§200-115 Special Exception Use Procedures](#)

A. General.

- 1) It is the intent of this Section to provide special controls and regulations for Uses which may, under certain conditions, be conducted within the various Zoning districts established in [Article IV, Uses](#).
- 2) Where the Board of Supervisors has stated, under [Article IV, Uses](#), that Special Exceptions to be granted or denied by the Zoning Hearing Board pursuant to the standards and criteria specified below, the Zoning Hearing Board shall hear and decide requests for such Special Exceptions in accordance with such standards and criteria. In granting a Special Exception, the Zoning Hearing Board may attach such reasonable conditions and safeguards, in addition to those expressed in this Ordinance, as it may deem necessary to implement the purposes of this Ordinance.

B. Application. Each application for a Special Exception use shall be accompanied by a proposed Site Plan if appropriate as specified under [§200-109, Zoning Permit](#).

C. Standards and Criteria. In any instance where the Zoning Hearing Board is required to consider a Special Exception to this Ordinance in accordance with the provisions of this Ordinance, the Zoning Hearing Board shall, among other things, consider the following standards and conditions:

- 1) Relationship to the Comprehensive Plan. Consideration of the size, scope, extent and character of the proposed special exception and assurance that such use is consistent with community goals and objectives of the New Garden Township Comprehensive Plan.

- 2) Relationship to this chapter. Consideration of the proposed special exception with respect to promoting harmonious development within the spirit, purpose and intent of this chapter, so that the proposed use will not adversely affect the public health, safety and welfare of Township residents.
  - 3) Suitability of the tract. Consideration of the suitability of the tract, including environmental conditions, highway access, and availability of sewer and water facilities.
  - 4) Impact on existing neighborhood character. Consideration of the extent to which the proposed special exception will alter the character of the existing neighborhood and adjacent tracts, or impact negatively on buildings or districts of historical or architectural significance.
  - 5) Impact on circulation. Consideration of the effects of the proposed special exception will have with respect to traffic patterns and volumes, access, parking and undue congestion.
  - 6) Economic impact. Consideration of the character and type of development proposed as it relates to generating revenue for the Township and to the value of the property in the surrounding community.
  - 7) Compliance with relevant supplemental use regulations in [Article IV, Uses](#).
- D. Zoning Hearing Board Action. The Zoning Hearing Board shall conduct a Public Hearing on each application for a Special Exception Use in accordance with [§200-113, Zoning Hearing Board](#).

#### §200-116 Conditional Use Procedures

- A. General.
- 1) It is the intent of this Section to provide standards and criteria for conditional uses which are permitted within the various Zoning districts established in [Article III, Districts](#).
  - 2) Where the Board of Supervisors has stated, under [Article IV, Uses](#), that Conditional Uses are to be granted or denied by the Board of Supervisors pursuant to the standards and criteria specified below, the Board of Supervisors shall hear and decide requests for such Conditional Uses in accordance with such standards and criteria. In granting a Conditional Use, the Board of Supervisors may attach such reasonable conditions and safeguards, in addition to those expressed in this Ordinance, as it may deem necessary to implement the purposes of this Ordinance.
- B. Application. Each application for a Conditional Use shall be accompanied by a proposed site plan if appropriate as specified under [§200-109, Zoning Permit](#).
- C. Standards and Criteria. Each Applicant shall demonstrate compliance with the following standards and criteria:
- 1) The proposed use at the location in question shall be in the public interest and best serve the public health, safety, and general welfare.
  - 2) The proposed use shall be consistent with the goals and objectives of the New Garden Township Comprehensive Plan.
  - 3) The size, scope, extent and character of the proposed use shall be consistent with the spirit, purpose and intent of this chapter.

- 4) Applicant shall take into consideration the character and type of development in the area surrounding the tract, and determine that the proposed change will not injure or detract from the use of surrounding properties or from the character of the neighborhood.
  - 5) Consider the effect of the proposed use with respect to the most appropriate use of land, conserving building and property values, and safety from fire and other dangers.
  - 6) Sufficient land area shall be made available to be able to effectively screen the proposed conditional use from adjoining different uses.
  - 7) The impact and effect on buildings or districts of historical or architectural significance.
  - 8) The proposed use shall comply with those criteria specifically listed in [Article IV, Uses](#). In addition, the proposed use shall comply with all other applicable regulations of this Ordinance.
- D. Conditions. The Board of Supervisors in approving Conditional Use applications, may attach conditions considered necessary to protect the Public welfare and the purposes listed above, including conditions which are more restrictive than those established for other uses in the same zone. These conditions shall be enforceable by the Zoning Officer and failure to comply with such conditions shall constitute a violation of this Ordinance and be subject to the penalties described in this Article.
- E. Hearing Procedures.
- 1) The Board of Supervisors shall, within 60 days from receipt of the Applicant's application, hold a Public Hearing thereon, pursuant to Public Notice. The Board of Supervisors shall submit each such application to the Township Planning Commission to provide the Township Planning Commission an opportunity to submit recommendations
  - 2) Public Notice, as defined herein, and written notice shall be given to the Applicant, the Zoning Officer, such other Persons as the Board of Supervisors shall designate by ordinance, and to any Person who has made timely request for the same. Written notices shall be provided by the applicant to the property owners whose boundary lies within 200 feet of the subject property boundary line. In addition to the written notice provided herein, written notice of said Hearing shall be conspicuously posted on the affected Tract of land at least one week prior to the Hearing.
  - 3) The Board of Supervisors may prescribe reasonable fees with respect to Hearings. Fees for said Hearings may include compensation for the secretary, stenographer, notice and advertising costs, and necessary administrative overhead connected with the Hearing.
  - 4) The parties to the Hearing shall be the Township, any Person affected by the application who has made timely appearance of record before the Board of Supervisors, and any other Person, including civic or community organizations permitted to appear by the Board of Supervisors. The Board of Supervisors shall have power to require that all Persons who wish to be considered parties enter appearance in writing on forms provided by the Board of Supervisors for that purpose.
  - 5) The Chairperson or Acting Chairperson of the Board of Supervisors shall have power to administer oaths and issue subpoenas to compel the attendance of witnesses and the production of relevant documents and paper, including witnesses and documents requested by the parties.

- 6) The parties shall have the right to be represented by counsel and shall be afforded the opportunity to respond and present evidence and argument and cross-examine adverse witnesses on all relevant issues.
- 7) Formal rules of evidence shall not apply, but irrelevant, immaterial, or unduly repetitious evidence may be excluded.
- 8) The Board of Supervisors shall keep a stenographic record of the proceedings. The appearance fee for a stenographer shall be shared equally by the Applicant and the Board of Supervisors. The cost of the original transcript shall be paid by the Board of Supervisors if the transcript is ordered by the Board of Supervisors; or shall be paid by the Person appealing the Decision of the Board of Supervisors if such Appeal is made, and in either event, the cost of additional copies shall be paid by the Person requesting such copy or copies. In other cases, the party requesting the original transcript shall bear the cost thereof.
- 9) The Board of Supervisors shall not communicate, directly or indirectly, with any party or his representatives in connection with any issue involved except upon notice and opportunity for all parties to participate, shall not take notice of any communication, Reports, staff memoranda, or other materials, except advice from their solicitor, unless parties are afforded an opportunity to contest the material so noticed and shall not inspect the site or its surroundings after the commencement of Hearings with any party or his representative unless all parties are given an opportunity to be present.
- 10) The Hearing shall be conducted by the Board of Supervisors or the Board may appoint any member or an independent attorney as a Hearing officer. The Decision, or, where there is no Decision, the findings shall be made by the Board of Supervisors. However, the appellant or the Applicant, as the case may be, in addition to the municipality, may, prior to the Decision of the Hearing, waive Decision or findings by the Board of Supervisors and accept the Decision or findings of the Hearing officer as final.
- 11) The Board of Supervisors shall render a written Decision or, when no Decision is called for, make written finds on the Conditional Use application within 45 days after the last Hearing before the Board of Supervisors. Where the application is contested or denied, each Decision shall be accompanied by findings of fact or conclusions based thereon, together with any reasons therefor. Conclusions based on any provisions of this act or of any ordinance, rule or regulation shall contain a reference to the provision relied on and the reasons why the conclusion is deemed appropriate in the light of the facts found.
- 12) Where the Board of Supervisors fails to render the Decision within the period required by this subsection or fails to commence, conduct or complete the required Hearing as provided in this subsection, the Decision shall be deemed to have been rendered in favor of the Applicant unless the Applicant has agreed in writing or on the record to an extension of time. When a Decision has been rendered in favor of the Applicant because of the failure of the Board of Supervisors to meet or render a Decision as hereinabove provided, the Board of Supervisors shall give Public Notice of the Decision within 10 days from the last day it could have met to render a Decision in the same manner as required by the Public Notice requirements of this Ordinance. If the Board of Supervisors shall fail to provide such notice, the Applicant may do so.

F. Time Limitation.

- 1) If a Conditional Use is granted, the application for use, permit or land development or subdivision plan shall be submitted within two years after the date when the Conditional Use is finally granted. If such an application is not submitted, the conditional use approval shall lapse. For good cause, the Board of Supervisors may at any time, upon application in writing, extend either of these deadlines.
- 2) As an alternative to the preceding, an Applicant can request, as part of the original application before the Board, the granting of a timetable associated with the request which would supersede the deadlines imposed in **Subsection F.1** above. In so doing, the Applicant shall demonstrate that the times requested are logically related to normal and expected progress of the project. In approving a timetable under this section, the Board shall establish and bind a definite time frame for (1) issuance of a Zoning permit, and (2) completion of Construction of the project.

§200-117 Enforcement Notification

- A. Whenever the Zoning Officer or other authorized Township representative determines that there are reasonable grounds to believe that there has been a violation of any provision of this Ordinance, or of any regulation adopted pursuant thereto, the Zoning Officer may initiate enforcement proceedings by sending an enforcement notice as provided in this Article with discretion to send an initial warning prior to the enforcement notice.
- B. The enforcement notice shall be sent to the Owner of record of the parcel on which the violation has occurred, to any Person who has filed a written request to receive enforcement notices regarding that parcel, and to any other Person requested in writing by the Owner of record.
- C. An enforcement notice shall state at least the following:
  - 1) The name of the Owner of record and any other Person against whom the Township intends to take action.
  - 2) The location of the property in violation.
  - 3) The specific violation with a description of the requirements which have not been met, citing in each instance the applicable provisions of this Ordinance.
  - 4) The date before which the steps for compliance shall be commenced, and the date before which the steps shall be completed.
  - 5) An outline of remedial action which, if taken, shall affect compliance with the provisions of this Ordinance, or any part thereof, and with any regulations adopted pursuant thereto.
  - 6) A statement indicating that the recipient of the notice has the right to Appeal to the Zoning Hearing Board within a prescribed period of time, in accordance with procedures set forth elsewhere in this Ordinance.
  - 7) A statement indicating that failure to comply with the notice within the time specified, unless extended by Appeal to the Zoning Hearing Board, constitutes a violation, with possible sanctions clearly described.

- D. In any Appeal of an enforcement notice to the Zoning Hearing Board, the Township shall have the responsibility of presenting its evidence first.
- E. Any filing fees paid by a party to Appeal an enforcement notice to the Zoning Hearing Board shall be returned to the appealing party by the Township if the Zoning Hearing Board, or any court in a subsequent Appeal, rules in the appealing party's favor.
- F. Causes of Action. In case any Building, Structure, Landscaping, or land is, or is proposed to be, erected, constructed, reconstructed, altered, converted, maintained, or used in violation of any ordinance enacted by the Township or prior enabling laws, the Board of Supervisors or, with the approval of the Board of Supervisors, an officer of the Township, or any aggrieved Owner or tenant of real property who shows that his property or Person shall be substantially affected by the alleged violation, in addition to other remedies, may institute any appropriate action or proceeding to prevent, restrain, correct or abate such Building, Structure, Landscaping or land, or prevent, in or about such Premises, any act, conduct, business or Use constituting a violation. When any such action is instituted by a Landowner or tenant, notice of that action shall be served upon the Township at least 30 days prior to the time the action is begun by serving a copy of the complaint to the Board of Supervisors. No such action may be maintained until such notice has been given.

#### §200-118 Amendments

- A. General.
  - 1) Before voting on the enactment of an Amendment, the Board of Supervisors shall hold a Public Hearing thereon, pursuant to Public Notice and pursuant to mailed notice and electronic notice to an owner of a tract or parcel of land located within a municipality who has made timely requests in accordance with section 109 of the MPC. In addition, if the proposed Amendment involves a Zoning Map change, notice of said Public Hearing shall be conspicuously posted by the Township at points deemed sufficient by the Township along the perimeter of the Tract to notify potentially interested citizens. The affected Tract or area shall be posted at least one week prior to the date of the Hearing.
  - 2) In addition to the requirement that notice be posted under clause a), where the proposed amendment involves a zoning map change, notice of the public hearing shall be mailed by the municipality at least thirty days prior to the date of the hearing by first class mail to the addresses to which real estate tax bills are sent for all real property located within the area being rezoned, as evidenced by tax records within the possession of the municipality. The notice shall include the location, date and time of the public hearing. A good faith effort and substantial compliance shall satisfy the requirements of this subsection. This clause shall not apply when the rezoning constitutes a comprehensive rezoning. In the case of an Amendment other than that prepared by the Planning Commission, the Board of Supervisors shall submit each such Amendment to the

Planning Commission at least 30 days prior to the Hearing on such proposed Amendment to provide the Planning Commission an opportunity to submit recommendations.

- 3) If after any public hearing is held upon an amendment, the proposed amendment is change substantially, or is revised to include land previously not affected by it, the Board of Supervisors shall hold another public hearing, pursuant to public notice, mailed notice, and electronic notice before proceeding to vote on the amendment.
- 4) Referral to County Planning Commission. The Board of Supervisors shall at least 30 days prior to the Public Hearing, refer the proposed Amendment to the Chester County Planning Commission for recommendations.
- 5) Within 30 days after enactment, a copy of the Amendment to this Ordinance shall be forwarded to Chester County Planning Commission.

**B. Procedure for Landowner Curative Amendments.**

- 1) A Landowner who desires to challenge on substantive grounds the validity of this Ordinance or the Zoning Map or any provision thereof, which prohibits or restricts the Use or Development of land in which the Landowner's interest may submit a curative Amendment to the Board of Supervisors with a written request that their challenge and proposed Amendment be heard and decided as provided in Article 916.1 of the MPC. The curative Amendment and challenge shall be referred to the Planning Commission, and the Chester County Planning Commission provided in MPC Section 609 and notice of the Hearing thereon shall be given as provided in Articles 610 and 916.1 of the MPC.
- 2) The Hearing shall be conducted in accordance with Article 908 of the MPC and all references therein to the Zoning Hearing Board shall, for purposes of this Article, be references to the Board of Supervisors. If the Township does not accept a Landowner's curative Amendment brought in accordance with this subsection and a court subsequently rules that the challenge has merit, the court's Decision shall not result in a declaration of invalidity of this Ordinance and Zoning Map, but only for those provisions which specifically relate to the Landowner's curative Amendment and challenge.
- 3) The Board of Supervisors, if it determines that a validity challenge has merit, may accept a Landowner's curative Amendment, with or without revision, or may adopt an alternative Amendment that shall cure the challenged defects. The Board of Supervisors shall consider the curative Amendments, plans, and explanatory material submitted by the Landowner and shall consider:
  - a) The impact of the proposal upon Roads, sewer facilities, water supplies, schools, and other Public service facilities.
  - b) If the proposal is for residential Use, the impact of the proposal upon 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 this Ordinance or Zoning Map.
  - c) The suitability of the site for the intensity of Use proposed by the site's soils, Slopes, Woodlands, Wetlands, Floodplains, aquifers, natural resources, and other natural features.

- d) 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 destroyed, the tolerance of the resources to Development, and any adverse environmental impacts.
- e) The impact of the proposal on the preservation of agriculture and other land uses, which are essential to Public health and welfare.
- f) The impact of the proposal on existing Historic Resources.

C. Procedure for Municipal Curative Amendments.

- 1) If the Township determines that this Ordinance, or any portion hereof, is substantially invalid, it shall take the following actions:
  - a) The Township shall declare by formal action, this Ordinance or portions hereof substantially invalid, and propose to prepare a curative Amendment to overcome such invalidity. Within 30 days of such declaration and proposal, the Board of Supervisors shall:
    - (i) By resolution, make specific findings setting forth the declared invalidity of this Ordinance which may include:
      - (a) References to specific uses which are either not permitted or not permitted in sufficient quantity;
      - (b) Reference to a class of Use or uses which requires revision; or,
      - (c) Reference to this Ordinance which requires revisions.
    - (ii) Begin to prepare and consider a curative Amendment to this Ordinance to correct the declared invalidity.
- 2) Within 180 days from the date of the declaration and proposal, the Township shall enact a curative Amendment to validate or reaffirm the validity of this Ordinance pursuant to the provisions of Article 609 of the MPC, in order to cure the declared invalidity of this Ordinance.
- 3) Upon the initiation of the procedures, as set forth in **Subsection C.1** above, the Board of Supervisors shall not be required to entertain or consider any Landowner's curative Amendment filed under Article 609.1 of the MPC, nor shall the Zoning Hearing Board be required to give a Report requested under Article 909.1 or 916.1 of the MPC subsequent to the declaration and proposal based upon the grounds identical to or substantially similar to those specified in the resolution required by **Subsection C.1.a.ii**. Upon completion of the procedures as set forth in **Subsection C.1** and **Subsection C.2**, no rights to a cure pursuant to the provisions of Articles 609.1 and 916.1 of the MPC shall, from the date of the declaration and proposal, accrue to any Landowner on the basis of the substantive invalidity of the unamended Zoning Ordinance for which there has been a curative Amendment pursuant to this Article.
- 4) The Township, having utilized the procedures set forth in this Ordinance, may not again utilize said procedure for a period of 36 months following the date of enactment of a curative Amendment or reaffirmation of the validity of this Ordinance. Provided, however, if after the date of declaration and proposal there is a substantially new duty imposed upon the Township by virtue of a change in statute or a Pennsylvania Appellate Court Decision to propose a curative Amendment to this Ordinance to fulfill said duty or obligation.

## Article II – Definitions

### §200-201 Rules of Interpretation

The following rules apply to the interpretation of this Ordinance:

- A. Words in the singular include the plural and those in the plural include the singular;
- B. Words used in the present tense include the future tense;
- C. The words “Person”, “Applicant”, “developer”, and “Owner” include a corporation, unincorporated association and a partnership, or other legal entity, as well as an individual engaged in the subject activity;
- D. The word "County" refers to Chester County, Pennsylvania; the term "Township" shall refer to the Township of New Garden; the term "Planning Commission" shall refer to the Planning Commission of New Garden; and the term "Zoning Hearing Board" shall refer to the Zoning Hearing Board of New Garden Township.
- E. The word “Building” includes Structure and shall be construed as if followed by the phrase “or part thereof;”
- F. The word “Watercourse” includes channel, creek, ditch, dry run, spring, Stream and river;
- G. The words “should” and “may” are permissive; the words “shall” and “will” are mandatory and directive;
- H. The word “used” or “occupied” as applied to any land or Building shall be construed to include the words “intended, arranged or designed to be used or occupied”; and
- I. In case of any difference of meaning or implication between the text of this Chapter and any caption or illustration, the text shall control.

## §200-202 Defined Words and Terms

### *Words and Terms That Start with A*

**ABANDONMENT** – The relinquishment of property, or a cessation of the use of the property, by the owner with the intention neither of transferring rights to the property to another owner nor of resuming the use of the property.

**ABUT[TING]** – To physically touch or border upon; or to share a common property line.

**ACCESS DRIVE** – A paved surface, other than a Street, which provides vehicular access from a Street or private Road to a Lot.

**ACCESSORY BUILDING** — A Building subordinate to the Principal Buildings on a Lot and used for purposes customarily incidental to those of the Principal Building, not used as a residence, or for human occupancy.

**ACCESSORY BUILDING AND STRUCTURE, RESIDENTIAL** — A Building or Structure subordinate to the principal residential Building located on the same Lot and used for purposes customarily incidental to those of the Principal Building, including but not limited to sheds, gazebos, Swimming Pools, detached Garages, retaining walls, Landscaping walls, ornamental walls and similar Buildings and Structures. Residential Accessory Buildings and Structures are not to be used as a residence or for human occupancy.

**ACCESSORY EQUIPMENT** — Any equipment serving or being used in conjunction with a Wireless telecommunications facility or Wireless support Structure. The term includes Utility or Transmission Equipment, power supplies, generators, batteries, cables, equipment Buildings, cabinets and storage sheds, shelters, or similar equipment.

**ADULT ESTABLISHMENT** – Any Commercial establishment, including but not limited to Adult Book Stores, Adult Motion Picture Theaters, Adult Mini-Motion Picture Theaters, Adult Entertainment Cabaret, or other adult entertainment establishments, in which is offered for sale as a substantial or significant portion of its stock in trade video cassettes, movies, books, magazines, or other periodicals or other media which are distinguished or characterized by their emphasis on Nudity or sexual conduct or activities which if presented in live presentation would constitute adult entertainment. Defined Adult Establishment Uses include:

- 1) **ADULT ARCADE** – Any place to which the Public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image producing devices are maintained to show images to five or fewer Persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of Specified Sexual Activities or Specified Anatomical Areas.
- 2) **ADULT BOOKSTORE OR VIDEO STORE** – An establishment having as a substantial or significant portion of its stock in trade motion pictures, video recordings, books, magazines, and other periodicals which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to

obscene activities for observation by patrons thereof or an establishment with a segment or section devoted to the sale, Rental or display of such material.

- 3) **ADULT CABARET** – A nightclub, bar, Restaurant or similar establishment that regularly features live performances that are characterized by the exposure of specific anatomical areas or by Specified Sexual Activities, or films, motion pictures, video cassettes, slides or other photographic reproductions in which a substantial portion of the total presentation time is devoted to the showing of material that is characterized by any emphasis upon the depiction or description of specified activities or anatomical areas.
- 4) **ADULT MOTEL** – A Hotel, Motel, or similar Commercial establishment which:
  - (i) Offers accommodations to the Public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of Specified Sexual Activities or Specified Anatomical Areas; and has a Sign visible from the Public Right-Of-Way which advertises the availability of this adult type of photographic reproductions; or
  - (ii) Offers sleeping rooms for rent four or more times in one calendar day for five or more calendar days in any continuous thirty-day period.
- 5) **ADULT MINI-MOTION-PICTURE-THEATER** – An enclosed Building with a capacity for less than 50 Persons used for presenting material distinguished or characterized by an emphasis on matters depicting, describing, or relating to obscene activities for observation by patrons therein.
- 6) **ADULT MOTION PICTURE THEATER** – An enclosed Building with a capacity of 50 or more Persons used for presenting material distinguished or characterized by an emphasis on matters depicting, describing, or relating to obscene activities for observation by patrons therein.
- 7) **ADULT THEATER** – 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 Sexual Activities or Specified Anatomical Areas.
- 8) **ESCORT AGENCY** – A Person or business association who furnishes, offers to furnish, or advertises to furnish Escorts for a fee, tip, or other consideration.
- 9) **NUDE MODEL STUDIO** – Any place where a Person who appears in a state of Nudity or displays Specified Anatomical Areas is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other Persons who pay money or any form of consideration.
- 10) Any Commercial establishment that offers for consideration activities between male and female Persons or Persons of the same sex when one or more Persons are nude or Semi-Nude.

**ADDITION** – An extension or increase in the footprint, Floor Area, Height or other dimension of a Building or Structure.

**ADJACENT TRACT, PARCEL, OR LOT** – Property that is Contiguous with, or directly across a Public Street or other Right-of-Way from, the boundaries of any side of the subject property.

**AGRITOURISM MARKETING ENTERPRISE** – An accessory use to an agricultural operation at which activities are offered to the Public or to invited groups for the purpose of recreation, entertainment,

education or active involvement in the agricultural operation. These activities shall be related to agriculture or natural resources and incidental to the primary operation on the Site. These activities may include a fee for participants. Examples include but are not limited to hayrides, corn mazes, farm tours, rodeo, educational exhibits, agriculturally related events, recreation-related tours, wedding venues, and other special event activities, etc.

**AIR TRANSPORT PACKAGE HANDLING FACILITY** – A Structure within which commodities are temporarily stored, while waiting delivery to their intended destination, after having been shipped by air transport to the facility or while waiting to be shipped by air transport from the facility. This definition does not include Structures and uses commonly referred to as warehouse, distribution facility, Trucking terminal, storage facility and the like.

**AIRPORT ELEVATION** – The highest point of an airport’s useable landing area measured in feet above mean sea level.

**AIRPORT HAZARD** – Any Structure or object, natural or manmade, or use of land which obstructs the airspace required for flight or aircraft in landing or taking off at an airport or is otherwise hazardous as defined in 14 CFR Part 77 and 74 Pa. Cons. Stat. §5102.

**AISLE** – The traveled way by which cars enter and depart Parking Spaces.

**ALL-WEATHER SURFACE** – A pavement constructed of materials such as macadam, bituminous concrete, portland cement concrete, grasscrete pavers, unistone pavers, or other surfaces approved by the Township Engineer.

**ALLEY** – A Public Right-of-Way, other than a Street, affording secondary means of access to Abutting property.

**ALTERATIONS** – As applied to a Building or Structure, any change or rearrangement in the structural parts or in the existing facilities, or an Enlargement, whether by extending on a side or by increasing in height, or the moving from one location or position to another.

**AMENDMENT** – A change in Use in a district that includes revisions to this Ordinance text or the official Zoning Map. The authority for any Amendment lies solely with the Township Board of Supervisors.

**ANIMAL BOARDING, DAYCARE, AND TRAINING** – Any Lot on which two or more animals that are older than six months (except relating to a farm) are kept, boarded, raised, bred, treated, or trained for a fee, including but not limited to dog or cat kennels.

**ANTENNA** – An apparatus designed for the purpose of emitting radiofrequency (RF) radiation, to be operated or operating from a fixed location pursuant to Federal Communications Commission

authorization, for the provision of Wireless service and any commingled information services. An Antenna shall not include tower-based Wireless communications facilities as defined below.

**APPLICANT** – A Landowner or developer as hereinafter defined including his heirs, successors, and assigns who has filed an application under this chapter.

**ASSEMBLY** - A facility that has organized services, meetings, or programs to benefit, educate, entertain, or promote discourse amongst the residents of the community in a public or private setting. Includes such uses as community centers, religious institutions, places of worship, auditoriums, civic centers, convention centers, and performing arts facilities.

- 1) **ASSEMBLY, NEIGHBORHOOD** - An assembly Use that occupies a Building with less than 10,000 square feet of Gross Floor Area.
- 2) **ASSEMBLY, GENERAL** - An assembly Use that occupies a Building with 10,000 square feet or more Gross Floor Area.

**ASSISTED LIVING FACILITY** – Any Premises in which food, shelter, assisted living services, assistance or supervision, and supplemental health care services are provided for a period exceeding 24 hours for 7 or more adults who are not relatives of the operator, who require assistance or supervision in matters such as dressing, bathing, diet, financial management, evacuation from the residence in the event of an Emergency or medication prescribed for self-administration. Assisted Living Facilities include nursing homes, rehabilitation facilities, in-patient behavioral health facilities, and long-term chronic care hospitals.

**ATTIC** – That part of a Building which is immediately below and wholly or partly within the Roof framing. Within a Dwelling Unit, an Attic shall not be counted as Floor Area unless it is constructed as or modified into a habitable room by an average ceiling Height of five feet or more, and a permanent stationary interior access stairway to a lower Building story.

**AUTOMOTIVE REPAIR GARAGE** – A Building, or part thereof, used for the intensive servicing and Repair of Motor Vehicles, including engine overhaul, bodywork and recapping/retreading of tires or other similar types of technical automotive work.

**AUTOMOBILE, TRUCK, AND LIMOUSINE SALES AND RENTAL** – A Commercial facility that offers automobiles, Trucks, or limousines for sale or for rent or lease for specific periods of time, including a stand-alone facility for automobile leasing services associated with an off-Site automobile dealership.

**AVIATION** – Any area, facility, or establishment engaged in accommodating air transportation. This can include airports, heliports, helistops, landing strips, and hot air balloon operations.

- 1) **AIRPORT** – A principal use where aircraft are stored, maintained, repaired, and refueled, and where aircraft take-off and land. Airports may also include other accessory accommodations for aircraft passengers, cargo, or both.

- 2) **HELIPORT/HELISTOP** – A dust-controlled area of land, structural surface, or water used or intended to be used for the landing, take-off, or surface maneuvering of a helicopter, autogyro, or other vertical takeoff craft with engines operating.

*Words and Terms That Start with B*

**BALCONY** - A platform enclosed by a wall or railing on the outside of a building, with access from an upper-floor window or door.

**BANNER** – Any cloth, bunting, plastic, paper, or similar non-rigid material attached to any Structure, staff, pole, rope, wire, or framing which is anchored on two or more edges or at all four corners. Banners are temporary in nature and do not include Flags.

**BASE FLOOD** – A Flood which has a one percent chance of being equaled or exceeded in any given year (also called “100-Year Flood” or 1% annual chance Flood).

**BASE FLOOD ELEVATION (BFE)** – The elevation shown on the Flood Insurance Rate Map (FIRM) for Zones AE, AH, A1-30 that indicates the water surface elevation resulting from a flood that has a 1-percent or greater chance of being equaled or exceeded in any given year.

**BASEMENT** – A level, enclosed area partly or completely below Grade, provided no more than one-third of the perimeter walls are five feet or more above Grade, and if the net area of the door and Window openings is at least equal to 10% of the enclosed Floor Area.

**BASE STATION** — A Structure or equipment at a fixed location that enables Federal Communications Commission-licensed or authorized Wireless communications between user equipment and a communications network. The term does not encompass a tower as defined in this Chapter or any equipment associated with a tower.

- 1) The term includes, but is not limited to, equipment associated with Wireless communications services, such as private broadcast and Public safety services, as well as unlicensed Wireless services (i.e., Wi-Fi) and fixed Wireless services (i.e., point-to-point microwave transmissions) such as microwave backhaul.
- 2) The term includes, but is not limited to, radio transceivers, Antennas, coaxial or fiber-optic cables, regular and backup power supplies, and comparable equipment, regardless of technological configuration (including distributed Antenna systems and small-cell networks).
- 3) The term includes any Structure other than a tower that, at the time of the relevant application is filed with the Township under this Chapter, supports or houses equipment described in Subsections A and B of this definition that has been reviewed and approved under the applicable Zoning or siting process, or under another state or local regulatory review process, even if the Structure was not built for the sole or primary purpose of providing such support.
- 4) The term does not include any Structure that, at the time the relevant application is filed with the Township under this Chapter, does not support or house equipment described in Subsections A and B of this definition.

**BED AND BREAKFAST** – A residential-style Building providing temporary lodging to the general Public consisting of no more than 10 sleeping rooms and in which breakfast is the only meal served and is included in the lodging charge.

**BEER/WINE/LIQUOR SALES** — A retail Use that primarily sells beer, wine, or liquor with or without nonalcoholic beverages and other incidental goods. This does not include a retail Use that sell some beer, wine, or liquor in addition to its primary goods, such as a grocery store.

**BERM** – A landscaped mound of earth or the act of pushing earth into a mound to shield, screen and Buffer two separate, incompatible land uses. Berms may also be used to provide visual interest, decrease Noise and control the direction of water flow.

**BEST MANAGEMENT PRACTICES (BMPs)** – State-of-the-art recommended practices for controlling stormwater runoff or handling hazardous substances.

**BILLBOARD** - A Structure for the permanent display of off-Premises advertising. Off-Premises advertising directs attention to a business, commodity, service or entertainment conducted, sold or offered at a location other than the Premises on which the sign is located.

**BIO-MEDICAL FACILITY** — A land use that performs research and Development functions related to the field of medicine and the production of biologic, biomedical, nutraceutical, or pharmaceutical products. A biomedical facility may include laboratories for the purpose of research, Testing, and the Development of medical treatments as well as the manufacturing of biologic, biomedical, or pharmaceutical products. A bio-medical facility is not intended to include hospitals, health care facilities, medical Incinerators, or medical offices.

**BOARDINGHOUSE** — A residential Dwelling arranged or used to provide overnight accommodations, with or without meals, for compensation by either transient or permanent occupants., of between three and six roomers, wherein no dining facilities are maintained for the roomer and in which bathrooms may or may not be shared.

**BREWERY, DISTILLERY, WINERY** — A facility for the production, packaging and sampling of alcoholic beverages – including beer, wine, cider, mead and distilled liquors for retail or wholesale distribution, for sale or consumption on- or off-Premises, and which produces 100,000 gallons or more of such beverages per year. The Brewery, Distillery, Winery must be licensed by the Pennsylvania Liquor Control Board and any successor agency of the Commonwealth.

**BREW PUB** — An Eating Place, as defined herein, that includes as an accessory use the on-Premises production of alcoholic beverages, including beer, wine, cider and distilled liquors, which produces less than 100,000 gallons of such beverages per year, and primarily sells its beverages on-Site, either for on- or

off -Premises consumption. The brew pub shall be licensed by the Pennsylvania Liquor Control Board and any successor agency of the Commonwealth.

**BUFFER** — A continuous strip of land adjacent to the Lot lines which is clear of Buildings and Paved Areas and is adequately landscaped in accordance with this Chapter to establish visual separation between incompatible land uses.

**BUILDING** – Any Structure, permanently affixed to land, having a Roof supported by columns or walls and intended for the shelter, housing or enclosure of Persons, animals or property, including covered Porches or bay Windows and chimneys. Included shall be all Manufactured homes and Trailers to be used for human habitation.

**BUILDING AREA** –The horizontal area measured around the outside of the foundation walls plus the floors of Roofed Porches and Roofed terraces, and including the area of Accessory Buildings if any. In the case of split-level dwellings, the "first Floor Area" shall be deemed to include Floor Areas on two non-overlapping levels, separated by a half Story, or less, of Height.

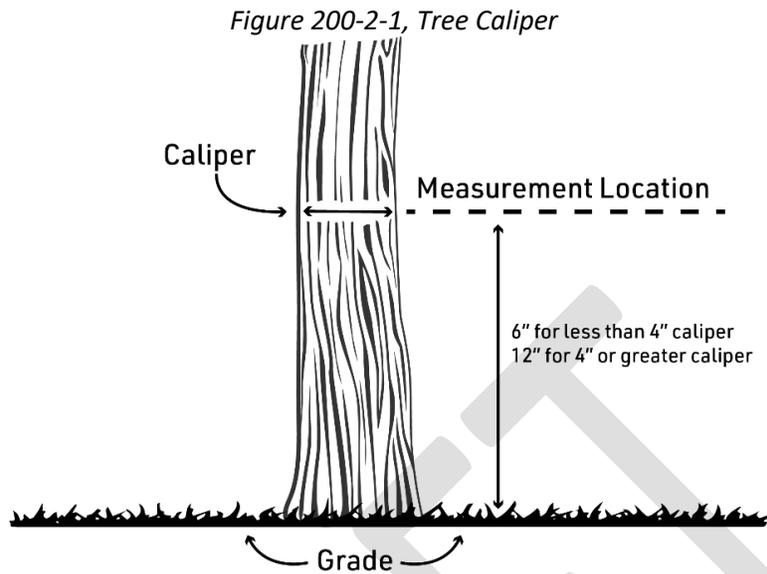
**BUILDING COVERAGE** – The ratio of the total square footage of all Structures situated on a Tract, Lot or parcel to the total square footage of the Tract, Lot or parcel containing such Structures. Measured from the outside of all exterior walls at ground level, it includes all exterior stairways, covered parking and walkways.

**BUILDING HEIGHT** – See HEIGHT, BUILDING.

**BUSINESS DAY** – Means a day that is not a recognized municipal or federal holiday and is not a Saturday or Sunday.

*Words and Terms That Start with C*

**CALIPER, TREE** – The diameter of a tree trunk, measured in inches, six inches above ground level for trees up to four inches in diameter and 12 inches above ground level for trees over four inches in diameter. The term applies to nursery stock. See **Figure 2-2-1, Tree Caliper**.



**CAMPGROUND** – A state-permitted facility, through the PA Department of Health (PA DOH) in which a portion of land is used for the purpose of providing a space for Trailers or tents for camping purposes, regardless of whether a fee has been charged for the leasing, renting or occupancy of the space, in accordance with the Pennsylvania Code, Title 28, Chapter 19. The campground may be an organized camp which includes a combination of programs and facilities established for the primary purpose of providing an outdoor group living experience for children, youth and adults with social, recreational, and educational objectives and operated and used for five or more consecutive days during one or more seasons a year.

**CAR WASH** – A principal or accessory use whereby Structures are equipped with apparatuses for the washing, waxing, vacuuming, or any combination thereof, of Vehicles. Car washes can be full-service, automatic, semi-automatic, or self-service.

**CEMETERY** – Land used or intended to be used for the burial of the deceased, including columbarium, crematoria, mausoleums, and mortuaries when operated in conjunction with the cemetery and within the boundaries thereof.

**CERTIFICATE OF OCCUPANCY** – A certificate issued and enforced by the Township’s appointed code enforcement officer after completion of the Construction of a new Building or after a change or conversion of the Structure or use of a Building, and prior to the use of said Structure or Building, which certifies that all requirements and regulations as provided herein, as well as all other applicable requirements, have been satisfied.

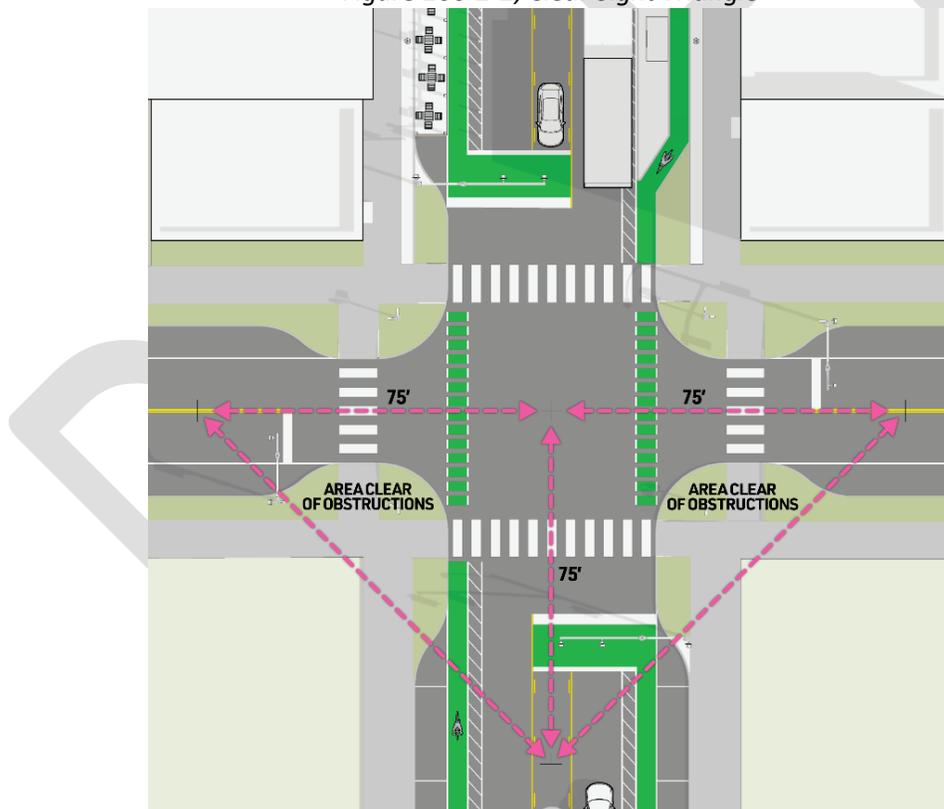
**CHICKENS** – Female poultry or fowl of the species *gallus domesticus*.

**CIGARETTE/VAPORIZER STORE** – A business establishment for which more than 50% of the Gross Floor Area is dedicated to the storage, mixing, display, or retail sale of cigars, cigarettes, tobacco, electronic cigarette devices, nicotine-enriched solutions, or liquid products that are Manufactured for Use with electronic cigarettes.

**CLEAR SIGHT DISTANCE** – An area of unobstructed vision measured at the Centerline of the Cartway to an object one and one-half feet above the pavement, from a Height of three and one-half feet and 10 feet from the edge of paving at the intersection. Sight distances shall be designed pursuant to **Chapter 170, Subdivision and Land Development Ordinance**.

**CLEAR SIGHT TRIANGLE** – An area of unobstructed vision at Street intersections defined by lines of sight between points at a given distance from the intersection of the Street center lines. See the New Garden Township Subdivision and Land Development Ordinance for the technical specifications on the Clear Sight Triangle.

*Figure 200-2-2, Clear Sight Triangle*



**CLEARLY PREVAILING YARD PATTERN** – The average depth of front yards of all developed lots within 100 feet on each side of the subject property.

**COLLOCATED WIRELESS COMMUNICATIONS FACILITY (COLLOCATED WCF)** – Wireless communications facilities that are attached to existing Structures, such as, but not limited to Buildings, water towers, electrical transmission towers, Utility poles, light poles, traffic signal poles, flag poles, and other similar Structures that do not require the installation of a new or replacement Wireless support Structure.

**COLLOCATION** – The mounting of one or more Wireless Communications Facilities (WCFs), including Antennas, on a pre-existing Structure, or modifying a Structure for the purpose of mounting, or installing a WCF on that Structure.

**COMMERCIAL EQUIPMENT AND SUPPLY** – A Use involving the large-scale sale of goods to residents or businesses within the region. The goods or merchandise sold may be of the same type or a variety of types and typically occupy a space greater than 20,000 square feet. This Use may include bulk sales and typically involves frequent Commercial Vehicle and consumer traffic. This Use is primarily located indoors but may also include accessory outdoor storage of goods. This includes such uses as bottled gas sales and supply; heating and air conditioning supply, sales, and service; Building materials, hardware, and lumber; machine sales and Rental; cabinet supply; electrical supply, plumbing sales and service; and farm equipment and supply wholesale trade.

**COMMERCIAL USE**— A use of land or improvements thereto for the purpose of engaging in retail, wholesale, or service activities for profit, including but not limited to the storage or material or merchandise held for resale, commercial vehicles including tractor trailers and the like.

**COMMERCIAL VEHICLE** – Any type of Motor Vehicle used for transporting goods or passengers for compensation.

**COMMON FACILITIES** - All the real property and improvements, owned in common by residents within the Development; which is served by the facilities. Common facilities include, without limitation, community centers, landscaped areas, stormwater management facilities, Buffers, Common Open Space land not included within title lines of any privately owned Lot, and Street Rights-of-Way not dedicated to the municipality.

**COMMUNITY ASSOCIATION** – An organization comprised of homeowners or property owners, the function of which is to maintain and administer property owned in common by members of the association or by the association, to protect and enhance the value of the property owned individually by each of the members. Homeowners Associations and Condominium Associations are types of Community Associations.

**COMMUNITY GARDEN** – A space used to grow plants for personal Use, education, recreation, community distribution, or beautification by members of the neighboring community. Community Gardens may be divided into separate plots for cultivation by one or more individuals or may be farmed collectively by members of the group and may include common areas maintained or used by community group members.

**COMMUNITY RESIDENCE** – A Single-Unit Dwelling occupied on a relatively permanent basis in a Family-like environment by a group of unrelated Persons plus paid professional support staff provided by a sponsoring agency, either living with the residents on a twenty-four-hour basis, or present whenever residents with disabilities are present at the dwelling. A community residence shall be licensed where required by any appropriate government agencies, and a copy of any such licenses shall be delivered to the Township prior to beginning the Use. A Community Residence includes Group Home and Recovery Home Uses as defined in this Article. The maximum capacities for each shall be governed by the appropriate government agencies' licensing regulations and standards.

- 1) **GROUP HOME** – A Single-Unit Dwelling licensed by the Pennsylvania Department of Human Services that is occupied as a single housekeeping unit in a Family-like environment by Persons with disabilities plus support staff. Residents are supervised by a sponsoring entity or its staff which provides habilitative services to the group home residents. A group home is owned or operated under the auspices of a nonprofit association, private care provider, government agency, or other legal entity, other than the residents themselves or their parents or other individuals who are their legal guardians. Interrelationships between residents are an essential component of a group home. A group home imposes no time limit on how long an individual can reside in the group home. A group home is a relatively permanent living arrangement where tenancy is measured in years.
- 2) **RECOVERY HOME** – A temporary residential living arrangement for Persons leaving an institutional setting and in need of a supportive living arrangement to readjust to living outside the institution. Interrelationships between residents are an essential component of a Recovery Home. Residency is limited to a specific number of weeks or months. Residents are receiving therapy and counseling from support staff who are present when residents are present to help them recuperate from the effects of drug or alcohol addiction.

**COMPOST, SPENT MUSHROOM** - The material or substrate which remains after the production of the mushroom growing cycle is complete , generally consisting of organic material, such as straw, manure, hay, cobs, peat moss and or soil used for the production of mushrooms This definition includes “aged” spent mushroom compost which is the material remaining after the spent mushroom material is exposed to weather and natural elements, which is handled, stored and spread in accordance with a Mushroom Farm Environmental Management Plan (MFEMP, which shall include a system of best management practices (BPM) to minimize soil erosion, ground water degradation and surface water pollution. Subject to regulations established by the Pennsylvania Department of Environmental Protection.

**COMPOSTING OPERATIONS, AGRICULTURAL** – The mixing, combining, processing, aerating or similar Use of any Composting materials that are regulated under Pennsylvania law as normal farming operations, including mushroom farm composting operations.

**COMPOSTING OPERATIONS, COMMERCIAL** – The mixing, combining, processing, aerating or similar Use of any Composting materials that are subject to residual waste management permitting requirements under the Pennsylvania Department of Environmental Protection’s regulatory programs.

**COMPOSTING OPERATIONS, MUSHROOM FARM** - The activities of a normal agricultural operation regulated under the Pennsylvania Department of Environmental Protection’s regulatory program pursuant to an approved Mushroom Farm Environmental Management plan, and which compost must be made using only agricultural wastes or agricultural wastes mixed with associated coproducts as defined and regulated by the Pennsylvania Department of Environmental Protection and all of which must be used on a farm for the production of mushrooms.

**COMPREHENSIVE PLAN** – The most recently adopted version of the Official Comprehensive Plan, New Garden Township, Chester County, PA, including any Amendments.

**CONDITIONAL USE** – A use permitted in a particular zoning district pursuant to the provisions in this ordinance and Article VI of the MPC.

**CONDOMINIUM** – Real Estate, portions of which is designated for Separate Ownership and the remainder of which is designated for common ownership solely by the owners of those separate portions, in accordance with the Pennsylvania Uniform Condominium Act 1980-82, as amended.

**CONSTRAINED LANDS** — Selected resources listed below, multiplied by a Protection factor and totaled.

Resource	Area of Resource (acres)	Protection Factor	Constrained Land (acres)
Existing Road and Utility rights-of- way		x 1.0	=
That portion of lands under conservation Easement or other permanent restriction that are restricted from further development		x 1.0	=
100-year Floodplain, including the Floodway		x 1.0	=
Wetlands		x 0.95	=
Steep Slopes (over 25%)		x 0.85	=
Precautionary Slopes (15% to 25%)		x 0.35	=

**CONSTRUCTION** – The erection or installation of a new Building, Structure, or object, as well as modifications or improvements to existing Buildings, Structures, or objects.

**CONTIGUOUS TRACT, PARCEL, OR LOT** – All portions of one operational unit as described in the deed or deeds, whether or not the portions are divided by Streams, Public Roads or bridges and whether or not the portions are described as multiple tax parcels, Tracts, subparts or other property identifiers. Not interrupted by other acreage or by Public streets.

**CONVENIENCE STORE** – Any retail store with a wide mix of goods typically used daily, including household goods, personal health items, cosmetics, candy, and tobacco products, and food.

**COOP** – A Structure, either portable or permanent, to shelter poultry.

**COURTYARD** — An unroofed or roofed outdoor Public space at Grade level, that is open on one or more sides and typically formed by a Building wall and/or a landscape Structure such as a wall, Hedge, ornamental Landscaping or trellis.

**COVERED DECK** – An exterior platform attached to a principal building, elevated above ground level, and roofed or otherwise covered to provide shelter from the elements. It may or may not be enclosed by walls and is typically used for outdoor living purposes.

*Words and Terms That Start with D*

**DATA CENTER** – A facility or portion of a facility housing networked computer systems and telecommunications equipment used for remote storage, processing, and distribution of data.

**DAY** – A calendar day, unless otherwise specified as a work day or business day, which mean Monday through Friday exclusive of Township-recognized holidays.

**DAY CARE, ADULT** – Any Premises operated for profit in which Adult Day Care is simultaneously provided for four or more adults who are not relatives of the operator. Adult Day Care is care given for part of the 24-hour day to adults requiring assistance to meet personal needs and who, because of physical or mental infirmity, cannot themselves meet these needs, but who do not require nursing care.

**DAY CARE, CHILD** – Any licensed Premises operated for profit in which Child Day Care is provided simultaneously for seven or more children who are not relatives of the operator, except such centers operated under social service auspices. Child Day Care means care in lieu of parental care given for part of the 24 hour day to children under 16 years of age, away from their own homes as follows: care provided to a child at the parent’s work Site when the parent is not present in the childcare space; care provided in private or public, profit or nonprofit facilities; and care provided before or after the hours of instruction in nonpublic schools and in private nursery schools and kindergartens.

**DECIBEL (dba)** - A unit for measuring the Sound-pressure level, equal to 20 times the logarithm to the base 10 of the ratio of the pressure of the Sound measured to the reference pressure, which is 20 micro pascals per square meter.

**DEMOLITION OR DEMOLISH** – The removal or destruction of all or part of a Building or Structure. Demolition includes, but is not limited to:

- 1) Permanent removal of any portion of any structural element such as a Roof or exterior wall, or any significant Building elements such as cornices, doors, Windows, doorways, Porches, or chimneys.
- 2) Permanently covering or obscuring any portion of any Roof or exterior wall, or any significant exterior Building elements.
- 3) Removing all or part of a Building or Structure that has been damaged by a fire, Flood, or other disaster.

**DENSITY** – The average number of Persons, families, or dwellings per unit of area (acre, square mile, etc.).

**DETERMINATION** – Final action by an officer, body or agency charged with the administration of any land use ordinance or applications thereunder.

**DEVELOPMENT** – Any man-made change to improved or unimproved Real Estate, including but not limited to the Construction , reconstruction, renovation, Repair, expansion, or Alteration of Buildings or other Structures; the placement of Manufactured homes; Streets, and other paving; utilities; filling, grading and excavation; mining; dredging; drilling operations; storage of equipment or materials; and the Subdivision of land.

**DIAMETER AT BREAST HEIGHT (DBH)** – The measurement of the tree in inches, specifically four feet six inches above natural Grade on the uphill side of the tree. In the case of trees with multiple trunks, the diameter of all stems (trunks) at breast height shall be combined to calculate the Diameter At Breast Height of the tree.

**DISABILITY** – A physical or mental impairment that substantially limits one or more major life activities, a Person who has a history or record of such an impairment, or a Person who is perceived by others as having such an impairment.

**DOMESTICATED ANIMAL** – An animal that has been tamed and kept by humans as a work animal, food source, or pet, especially a member of those species that have, through selective breeding, become notably different from their wild ancestors.

**DRINKING PLACE** – Any established licensed and permitted under the Pennsylvania Liquor Control Board to sell alcoholic beverages, including beer, wine, and liquor for on-Site consumption. Drinking Places are required to have a door that opens directly onto the adjacent Public Right-Of-Way during all hours of operation.

**DRIVE THROUGH ONLY FACILITY** – A facility or Structure designed to allow drivers to remain in their Vehicles during an activity on the Site. Drive-through only facilities serve as the principal use of the Site.

**DRIVE-THROUGH FACILITY, ACCESSORY** – A facility that provides or dispenses products or services, through an attendant or an automated machine, to Persons remaining in Vehicles that are in designated Stacking Aisles. A Drive-Through Facility is accessory to primary Service or Commercial Uses, such as a financial institution, personal service shop, retail store, eating establishment, convenience store, etc. In these guidelines, a drive-through facility does not include a car wash, parking Garage kiosks, or gas pump islands.

**DRIVEWAY** – Private Roads that provide access (both ingress and egress) between a Public way and Abutting property(ies) and any facilities on such property(ies). Driveways shall be designed pursuant to the applicable design standards specified in **Chapter 170, Subdivision and Land Development Ordinance**.

**DWELLING** – A Building containing one or more Dwelling Units. The term "dwelling" or any combination thereof shall not be deemed to include Hotel, Boardinghouse, Hospital, or other accommodations used for transient occupancy. Dwellings shall not include a tent, yurt, camper, or recreational vehicle or any space less than 400 square feet.

- 1) **SINGLE-UNIT DETACHED DWELLING** – A Building used by one Family, having only one Dwelling Unit and surrounded by Open Space or Yards and which is not attached to any other Building by any means.
- 2) **SINGLE-UNIT SEMI-ATTACHED DWELLING** – One Building consisting of two Dwelling Units, located on Abutting Lots and separated from each other by a solid partition wall without openings extending from the Basement floor to the highest point of the Roof along the dividing Lot line and separated from any other Building or Structures by Yards on all sides.
- 3) **TWO-UNIT DWELLING** – A Building located on one Lot containing not more than two Dwelling Units, arranged one above the other, side by side, or back to back, and not occupied by more than two Families.
- 4) **TOWNHOUSE DWELLING** – One of a series of three or more attached Dwelling Units separated from one another by continuous vertical solid partition walls without opening from Basement floor to the highest point of the Roof.
- 5) **MULTI-UNIT DWELLING** – A Building containing three or more Dwelling Units and occupied by three or more families.

**DWELLING UNIT** – A room or rooms within a Building connected together, constituting a separate independent housekeeping establishment for a single Family, for owner occupancy or for rental, lease or other occupancy on a monthly or longer basis. Units shall be physically separated from other units and shall contain independent cooking, sleeping and lavatory facilities. A tent, yurt, camper or recreational vehicle is not a dwelling unit.

**DWELLING UNIT, ACCESSORY** – A Dwelling Unit that is associated with and is incidental to another Dwelling Unit on the same Lot which serves as the Lot's Principal Use.

*Words and Terms That Start with E*

**EARTHMOVING ACTIVITY** – Any Construction or other activity which disturbs the surface of the land including, but not limited to, excavations, embankments, Land Development, Subdivision development, mineral extraction and the moving, depositing or storing of soil, rock or earth, excluding the tilling of the soil.

**EASEMENT** – An interest in land owned by another that entitles the holder to a specific limited use or enjoyment.

**EATING PLACE** – An establishment selling prepared foods for on-premise consumption and carry-out. Includes such uses as restaurants, cafes, coffee shops, diners, delis, fast-food establishments, lunch counters, and cafeterias. Eating Places, which do not include Brew Pubs, may sell alcoholic beverages, including beer, wine, and liquor for on-Site consumption as permitted through the Pennsylvania Liquor Control Board. Eating Places are required to have a door that opens directly onto the adjacent Public Right-Of-Way during all hours of operation.

**ELECTRIC VEHICLE** – Any Vehicle that operates in any way on electrical energy.

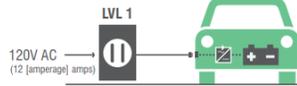
**ELECTRIC VEHICLE CHARGING STATION (EVCS)** – A privately owned or Publicly accessible Parking Space that is served by Electric Vehicle charging equipment for the purpose of transferring electric energy to a battery or other energy storage device in an Electric Vehicle. An Electric Vehicle Charging Level shall be defined as the standard indicator of electric force or voltage at which an Electric Vehicle is recharged as follows and as illustrated in [Figure 200-2-3, Electrical Vehicle Charging Levels](#).

- 1) **LEVEL 1** – A slow charging system with a voltage range of 0 through 120 AC123. For the purposes of a Zoning Permit application, Level 1 EVCS is for private use only.
- 2) **LEVEL 2** – A medium charging system with a voltage range of 121 through 240 AC124. For the purposes of a Zoning Permit application, Level 2 EVCS is for both private and Public use.
- 3) **LEVEL 3** – A fast-charging system with a voltage range of greater than 240 AC125. For the purposes of a Zoning Permit application, Level 3 is for Public use only.

Figure 200-2-3, Electric Vehicle Charging Levels

LEVELS OF CHARGE: DIAGRAMS AND ATTRIBUTES

LEVEL 1



8-20+ HOURS CHARGE TIME

ATTRIBUTES:

- A standard outlet can potentially fully recharge an EV battery in 8-12 hours, though larger batteries, such as on the Tesla Model S, would require between 1 and 2 days
- This level is often sufficient for overnight, home charging
- Standard outlets can also provide an option for “peace of mind” charging using onboard equipment on the go
- Uses standard J1772 coupler
- In-vehicle power conversion

LEVEL 2

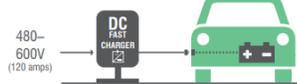


4-8 HOURS CHARGE TIME

ATTRIBUTES:

- Free-standing or hanging charging station units mediate the connection between power outlets and vehicles
- Requires installation of charging equipment and often a dedicated 20-80 amp circuit, and may require utility upgrades
- Well-suited for inside and outside locations, where cars park for only several hours at a time, or when homeowners seek added flexibility of use and a faster recharge
- The public charging network will comprise primarily level 2 charging stations
- Public context requires additional design features, such as payment and provider network interfaces or reservation systems
- Uses standard J1772 coupler
- In-vehicle power conversion, charging speed limited by the onboard charger

DC FAST CHARGE



30 MINUTES CHARGE TIME

ATTRIBUTES

- Free-standing units, often higher profile
- Enable rapid charging of EV battery to 80% capacity in as little as 30 minutes
- Electrical conversion occurs in EVSE unit itself
- Relatively high cost compared to level 2 chargers, but new units on the market are more competitively priced
- Draws large amounts of electrical current, requires utility upgrades and dedicated circuits
- Beneficial in heavy-use transit corridors or public fueling stations
- Standard J1772 “combo” coupler approved in October 2012

SITING AND DESIGN GUIDELINES FOR ELECTRIC VEHICLE SUPPLY EQUIPMENT (EVSE)

Source: Siting and Design Guidelines for Electric Vehicle Supply Equipment, November 2012

**ELECTRIC VEHICLE MAKE READY** – Infrastructure that will support the future installation of an Electric Vehicle Charging Station.

**ELIGIBLE FACILITIES REQUEST** — Any request for the modification of an existing tower or Base Station that does not substantially change the physical dimensions of such tower or Base Station, involving: 1) Co-location of new Transmission Equipment; 2) Removal of Transmission Equipment; or 3) Replacement of Transmission Equipment.

**ELIGIBLE SUPPORT STRUCTURE** — Any tower or Base Station, provided that it is existing at the time the relevant application is filed.

**EMERGENCY** — A condition that 1) Constitutes a clear and immediate danger to the health, welfare, or safety of the Public; or 2) Has caused or is likely to cause facilities in the Rights-of-way to be unusable and result in loss of the services provided.

**EMERGENCY WORK** — Any occurrence or set of circumstances involving actual or imminent physical or psychological trauma or property damage which demands immediate action.

**ENCROACHMENT** — A type of Obstruction involving the placement of a Structure or object within the Public Right-of-Way (ROW).

**ENLARGEMENT** — An Addition to the Floor Area of an existing Building, an increase of size of another Structure, or an increase in that portion of Lot occupied by an existing use

**ENTERTAINMENT ASSEMBLY** —A facility, other than a Stadium/Arena or Adult Establishment, for holding events, indoors or outdoors, to which members of the Public are invited with or without charge. Events may include theatrical performances; live music performances; dances, balls; shows or exhibitions; or live or broadcasted wrestling, boxing/sparring matches, or other sporting events.

**ENVIRONMENTALLY SENSITIVE AREAS** — An area on a Development site with one or more of the following characteristics:

- 1) Any area of archeological significance as defined by the Pennsylvania Archaeological Site Survey;
- 2) Any Building, Structure, object, district, place, site or area significant in the history, architecture, maritime heritage, archaeology or culture of the Commonwealth of Pennsylvania as defined by the Pennsylvania Historical and Museum Commission;
- 3) Habitats of endangered species or threatened species as designated by applicable Laws, including Environmental Laws;
- 4) Any Floodplain or other Special Flood Hazard Area as defined by FEMA;
- 5) Soils determined by the United States Department of Agriculture defined as being highly erodible and/or having a high water table;
- 6) Prime Woodlands defined as all trees greater than 4 inches in diameter which are located within any steep Slope area, designated Floodplain, Floodway, flood-fringe, Streams, or other Woodlands;
- 7) Steep Slopes in excess of 25%; and
- 8) Wetlands and surface waters as defined by Title 25 Chapter 93 of the PA Code including surface waters of exceptional ecological significance and exceptional recreational significance.

**EPA** — United States Environmental Protection Agency.

**EQUINE** – Relating to or affecting horses or other members of the horse Family.

**EQUINE ACTIVITIES** – An establishment where horses are kept for riding or are stabled for compensation or incidental to the operation of any club, association, ranch, or similar establishment.

**EQUIPMENT COMPOUND** – An area surrounding or adjacent to a Wireless Support Structure within which Base Stations, power supplies, or Accessory Equipment are located.

**EVENT VENUE** – Property with or without permanent Structures used for the purpose of housing private social events not open to the general Public, including, but not limited to, weddings, wedding rehearsals, or wedding parties, with or without live entertainment, where food and drink may be consumed on Site, but which provides no overnight accommodations.

**EXISTING LAND USE** – The use of a property as of the date this Ordinance was adopted.

**EXISTING MANUFACTURED HOME PARK OR SUBDIVISION** – A Manufactured home park or Subdivision for which the Construction of facilities for servicing the Lots on which the Manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the Construction of Streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the Floodplain management regulations adopted by a community.

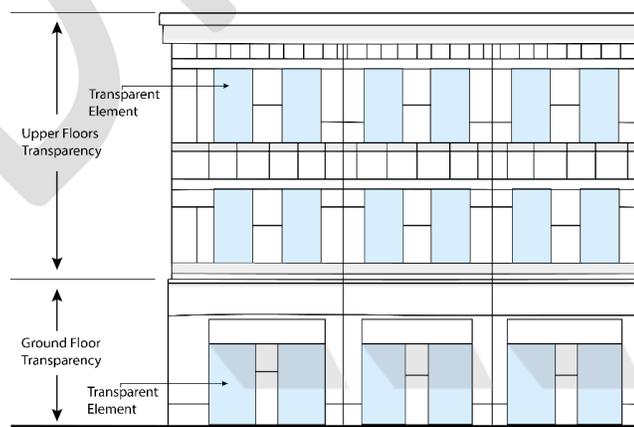
*Words and Terms That Start with F*

**FAA** – Federal Aviation Administration of the United States Department of Transportation.

**FAÇADE** – The face of a Building, especially the principal front that looks onto a Street or Open Space.

**FAÇADE TRANSPARENCY** – The amount of transparent Window glass or other openings in the Façade of a Building.

*Figure 200-2-4, Façade Transparency*



**FAMILY** – An individual or two or more Persons related by blood, foster relationship, marriage, or adoption and up to one unrelated Person; or up to four unrelated individuals living and cooking together as a single housekeeping unit with single cooking facilities and shared Utility services. This definition shall not be construed to include Persons occupying Community Residences, Boardinghouses, Bed and Breakfast establishments, Hotels, Motels, Short-term Rentals, or other similar lodgings.

**FARMERS MARKET** – A Public market administered by a market manager and held multiple times per year to connect and mutually benefit farmers, communities, and shoppers. The Farmers Market shall allow as vendors predominantly local farmers, farmers’ cooperatives and producers selling any of the following: whole produce; value-added agricultural products such as jams, jellies, and pickles; prepared food; all agricultural and horticultural products including but not limited to whole produce, plants, flowers, meats, dairy products, and other food-related products.

**FARM STAND** – An Accessory Use to an Agricultural Operation or Community Garden Use that sells only agricultural commodities which that Person or Persons have produced at least 50% of the tract of land on which the Farm Stand is set up, or on land owned by the Person or Persons who produced the agricultural commodities, if those agricultural commodities are produced on other land.

**FCC** – Federal Communications Commission.

**FENCE** - A barrier that encloses a field, yard, etc., usually made of posts and wood or wire, used to prevent entrance, to confine or to mark a boundary.

**FINISHED GRADE** – The completed surfaces of lawns, walks, and Roads brought to grades as shown on official plans or designs relating thereto.

**FIREARM ESTABLISHMENT** – A business establishment, duly licensed by the appropriate agencies of the United States of America and the Commonwealth of Pennsylvania, that more than 50% of the Gross Floor Area is dedicated to selling firearms, either by wholesale or retail, mail order or any other manner; manufacturing firearms or ammunition; training in the use of firearms; or providing an indoor shooting range facility.

**FIREARMS TARGET RANGE, INDOOR** – A Commercial business where for a fee firearms and other projectile-type weapons (e.g., guns, rifles, shotguns, pistols, air guns, archery crossbows, etc.) can be shot indoor for recreation, competition, skill development, training, or any combination thereof.

**FIREARMS TARGET RANGE, OUTDOOR** – A Commercial business where for a fee firearms and other projectile-type weapons (e.g., guns, rifles, shotguns, pistols, air guns, archery crossbows, etc.) can be shot outdoors for recreation, competition, skill development, training, or any combination thereof.

**FLOOD** – A temporary inundation of normally dry land areas.

**FLOOD, 100-YEAR** – See BASE FLOOD.

**FLOOD INSURANCE STUDY (FIS)** – The official Report provided by the Federal Emergency Management Agency that includes Flood profiles, the Flood Insurance Rate Map, the Flood Boundary and Floodway Map, and the water surface elevation of the Base Flood.

**FLOODPLAIN**– A relatively flat or low land area which is subject to partial or complete inundation from an adjoining or nearby Stream, river or Watercourse; and/or any area subject to the unusual and rapid accumulation of surface waters from any source.

**FLOODPLAIN, IDENTIFIED** – This term is an umbrella term that includes all of the areas within which the community has selected to enforce Floodplain regulations. It includes the area identified as the Special Flood Hazard Area on the Flood Insurance Rate Maps and Flood Insurance Study.

**FLOODWAY**– The designated area of a Floodplain required to carry and discharge Floodwaters of a given magnitude. For the purposes of this Chapter, the Floodway shall be capable of accommodating a Flood of the 100-year magnitude, in accordance with applicable Federal Emergency Management Agency (FEMA) criteria. Sometimes referred to as flood fringes.

**FLOOR AREA, GROSS (GFA)** – The Total Floor Area, measured between the outside of exterior walls or between the outside of exterior walls and the center line of Party Walls dividing the Building from another Building, of all floors above the average level of finished ground adjoining the Building at its exterior walls. Including:

- 1) Basement space if it meets the requirements of a Building Story.
- 2) Stairwells, Attic space whether or not a floor has been laid, and elevator shafts, providing structural headroom of eight feet or more.
- 3) Roofed terraces, breezeways and Porches, provided that over 50% of the perimeter of these is enclosed.
- 4) Any other floor space designed for the intended principal use, no matter where it is located within the Building.
- 5) The area of Accessory Buildings.

**FLOOR AREA, GROSS LEASABLE (GLA)** – The Total Floor Area designed for occupancy by an Owner or tenant, as measured to the center of interior joint walls and the exterior of outside walls.

**FLOOR AREA, TOTAL** - The area of all floors in all Buildings measured to the outside of the exterior walls, excluding Attics, Basements, and open Porches (measured in square feet). Note: An “open Porch” has a Roof but is not enclosed with screens or Windows. Porches enclosed with screens or Windows shall be counted toward Total Floor Area.

**FOOTCANDLE** – Unit of light quantity equal to the number of lumens striking an area equal to one square foot.

**FORESTRY OPERATION** – The management of forests and timberlands when practiced in accordance with accepted silvicultural principles, through developing, cultivating, harvesting, transporting, and selling trees for Commercial purposes, which does not involve any Land Development.

**FRONTAGE** – The linear measurement taken along a property’s common boundary with an adjoining Street Right-of-Way, other than that of a limited access highway.

**FRONTAGE, STREET** – The side or sides of a Lot Abutting on a Public Street or Right-of-Way.

**FUNERAL HOME** – A place or premise devoted to or used in the care and preparation for burial, disposition, or transportation of dead human bodies, or any specifically designated location or address where any person or persons shall hold forth that he, she, or they are engaged in the practice of mortuary science, embalming, cremation services, or funeral directing, and shall mean and include any Premises of any kind whatsoever in which mortuary science in any of its branches is practiced or in which more than five funerals may be conducted in any calendar year, except publicly owned Buildings, places of worship and meeting places of fraternal organizations. Funeral homes/mortuaries may include Crematoriums (as an Accessory Use), visitation rooms, and administrative offices.

DRAFT

*Words and Terms That Start with G*

**GARAGE, PRIVATE** - An Accessory Building or part of a Principal Building used for the storage of Motor Vehicles owned and used by the owner or tenant of the Premises, and the storage of not more than two Motor Vehicles owned and operated by Persons other than the owner or tenant of the Premises.

**GOLF COURSE/COUNTRY CLUB** – An area of land laid out for the game of golf with a series of nine or 18 holes, each including related features such as tees, fairways, driving ranges, putting greens, and artificial hazards.

**GOVERNING BODY** – The Board of Supervisors of New Garden Township, Chester County, Pennsylvania.

**GOVERNMENT FACILITY** – A single-purpose Public facility used for civic functions, which includes a place for Public assembly in a portion of the facility, for the executive, legislative, or judicial branches of the State or a political Subdivision thereof. Includes Township Municipal Buildings. Does not include office Buildings occupied by a government entity that are also utilized by private or non-governmental occupants.

**GRADE (ADJACENT GROUND ELEVATION)** – The lowest point of elevation of the finished surface, paving or sidewalk within the area between the Building and the property line. When the property line is more than five feet from the Building, the Grade shall be the lowest point of elevation between the Building and a line five feet from the Building.

**GROUNDWATER** – Water that occurs in the subsurface and fills or saturates the porous openings, fractures, and fissures of underground soils and rock units.

*Words and Terms That Start with H*

**HABITABLE FLOOR AREA** – The aggregate of the horizontal area of all rooms used for habitation, such as living room, dining room, kitchen, bedroom, but not including hallways, stairways, cellars, Attics, service rooms or Utility rooms, bathroom, closets, nor unheated areas such as enclosed Porches, nor rooms without at least one Window or skylight opening onto an outside Yard or court. At least one-half of the Floor Area of every habitable room shall have a ceiling Height of not less than seven (7') feet and the Floor Area of that part of any room where the ceiling Height is less than five (5') feet shall not be considered as part of the Habitable Floor Area.

**HANDICAP** – Means, with respect to a Person:

- 1) A physical or mental impairment which substantially limits one or more of such Person's major life activities,
- 2) A record of having such an impairment, or
- 3) Being regarded as having such an impairment, but such term does not include current, illegal use of or addiction to a controlled substance (as defined in Section 102 of the Controlled Substances Act (21 U.S.C. 802)).

**HISTORIC RESOURCE, HISTORIC STRUCTURE, or HISTORICALLY SIGNIFICANT SITE-** Any Structure or site that is:

- 1) Listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- 2) Certified or preliminarily determined by the Secretary of the Interior as contributing or significant to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- 3) Individually listed on a state inventory of historic places in states with historic Preservation programs which have been approved by the Secretary of the Interior; or
- 4) Individually listed on a County or local inventory of historic places in communities with historic Preservation programs that have been certified either:
  - a) By an approved State program as determined by the Secretary of the Interior; or
  - b) Directly by the Secretary of the Interior in states without an approved program.
  - c) Individually listed on the most recent Chester County Historic Resources Inventory.

**HAZARDOUS MATERIAL** – Substances or materials which, because of their chemical, physical, or biological nature, pose a potential risk to life, health, or property if they are released. A “release” may occur by use, spilling, leaking, emitting toxic vapors, or any other process that enables the material to escape its container, enter the environment, and create a potential hazard. The separate and authoritative definitions are in the U.S. OSHA, U.S. EPA, U.S. Nuclear Regulatory Commission (NRC), and U.S. DOT regulations. These agencies and their state counterparts provide the authoritative definitions of hazardous wastes, radioactive materials, and related definitions.

**HEARING** – An administrative proceeding conducted by a board pursuant to Section 909.1 of the Pennsylvania Municipalities Planning Code.

**HEAT** – For the purpose of this Ordinance, Heat is defined as thermal energy of a radioactive, conductive, or convective nature. Heat emitted at any or all points shall not at any time cause a temperature increase on any adjacent property in excess of 10 degrees Fahrenheit whether such change be in the air or in the ground, in a natural Stream or lake, or in any Structure on such adjacent property.

**HEDGE**— A linear plant community dominated by trees and/or shrubs. Hedges often occur along Roads, fence lines, property lines, or between fields, and may occur naturally or be specially planted (e.g., as a windbreak).

**HEIGHT, BUILDING** – The vertical distance measured from the average Finished Grade at all corners of the foundation (at least eight points if circular Building), to a point midway between the highest and lowest points of the roof excluding chimney or superstructures above the Roof.

**HEIGHT, STRUCTURE** – A Structure’s vertical measurement taken from average Grade along the face of the Structure which is nearest the property line adjacent to a Public or private Street Right-of-Way to the highest point of the Structure.

**HEIGHT, WIRELESS COMMUNICATIONS FACILITY** – The distance measured from the pre-existing Grade level to the highest point on the Wireless Communication Facility, even if said highest point is an Antenna or lightning protection device.

**HIVE** – Any frame hive, box hive, box, barrel, log, gum, skep or other receptacle or container, natural or artificial, or any part thereof, which may be used or employed as a domicile for bees.

**HOME BASED BUSINESS, NO IMPACT** – A business or Commercial activity administered or conducted as an Accessory Use which is clearly secondary to the Use as a residential dwelling and which involves no customer, client or patient traffic, whether vehicular or pedestrian, pickup, delivery or removal functions to or from the Premises, in excess of those normally associated with residential Use.

**HOME CHILD CARE** – Supplementary, temporary care of children, unrelated to the caregiver, on a regularly recurring basis for a portion of one or more days in the week and provided in the home of the caregiver.

**HOME OCCUPATION** – A Use that is clearly subordinate and incidental to the Principal Use as a residence and is conducted in a Dwelling Unit by permanent residents thereof by one or more members of the occupying household and does not alter the exterior of the Building or its appearance.

- 1) Included Uses. Home Occupation includes the following and other uses deemed similar by the Zoning Officer: accountant, artist, attorney, author, computer operator or programmer, childcare of six or fewer children, designer (computer, graphic, architect, interior, etc.) home crafts, seamstress or tailor, sales Person or representative (no on-Site retail or wholesale transactions), tutoring, and instruction of craft and fine art.
- 2) Excluded Uses. Home Occupation excludes such Uses, as otherwise defined in these regulations, Civic and Institutional Uses; Retail Uses; Service Uses other than photography studio, tailor or seamstress, therapeutic Massage establishment (licensed proprietor).

**HOMEOWNERS ASSOCIATION** – See COMMUNITY ASSOCIATIONS.

**HOSPITAL** – A licensed institution providing medical care and health services to the community, primarily ill or injured in-patients. These services may be located in one Building or clustered in several Buildings, one of which must provide Emergency services, and may include additional hospital-affiliated Accessory Uses such as laboratories, in- and out-patient facilities, training facilities, medical offices, staff sleeping quarters (but not full-time residences), food service, heliports, pharmacies, laundry facilities, florists, vendors of medical equipment, opticians, and gift shops.

**HOSPITAL, SMALL-FORMAT** – A facility that regularly makes available clinical laboratory services, diagnostic radiological services, treatment facilities for medical treatment, or other services associated with Hospitals licensed by the Pennsylvania Department of Health. These services may be in a Building with other Principal Uses including Medical Clinics.

**HOTEL** – A facility offering temporary lodging to the general Public consisting of 10 or more sleeping rooms with a bathroom for each room and providing daily room cleaning services and other guest services. In-room kitchen facilities may or may not be provided. Includes apartment or residential hotels. Secondary service uses may also be provided, such as restaurants and meeting rooms.

*Words and Terms That Start with I*

**IMPERVIOUS LOT COVERAGE** – The ratio of the total area on a Lot which is in Impervious Cover, divided by the total area of the Lot, expressed as a percentage. For the purpose of this definition, Impervious Coverage on a Lot encompasses all Impervious Cover plus the entire Building Area, including Roof overhangs, cornices, eaves, and gutter.

**IMPERVIOUS COVER/SURFACE** – A surface composed of any material that significantly impedes or prevents natural Infiltration of water into the soil. Includes, but is not limited to, Rooftops, Parking Lots, Driveways, Buildings, Streets, Roads, Covered Deck, Swimming Pools and any concrete or asphalt. Impervious Cover does not include Pervious Surfaces as defined herein. Crushed stone, gravel, Paved Areas, porous paving and similar materials and materials which have a tendency to compact overtime or through use shall be considered impervious surfaces. See PERVIOUS SURFACE.

**INCINERATOR** – A facility designed to reduce municipal Solid Waste by combustion. Incinerators consist of refuse handling and storage facilities, furnaces, subsidence chambers, residue handling and removal facilities. Chimneys and other air pollution control equipment and may or may not include Heat exchange equipment for energy recovery.

**INDUSTRIAL** – Those activities involving manufacturing or processing of products and materials to produce a new product.

**INDUSTRIAL, CRAFTSMAN** – A Use that includes a showroom or small retail outlet and production space, and involves small scale production, assembly, or Repair with little to no noxious by-products. This Use may also include associated facilities such as offices and small-scale warehousing with limited regional distribution. Craftsman Industrial can include such Uses as those that Manufacture or fabricate the items listed in [Figure 200-2-5, Typical Industrial Uses](#).

**INDUSTRIAL, HEAVY** – A Use involving the production of goods from raw materials or the assembly of finished products with the potential for significant external effects, including Noise, odor, or other noxious by-products and may involve frequent Commercial Vehicle access and outdoor storage of materials or

products. Heavy Industry facilities may have disposal plans and chemical disposition plans. Heavy Industrial Uses may include Uses in [Figure 200-2-5, Typical Industrial Uses](#).

**INDUSTRIAL, LIGHT** — A Use involving the production of goods from raw materials or the assembly of finished products that can result in limited negative external effects, Noise, and other non-noxious by-products. Light Industrial Uses can include those Uses listed [Figure 200-2-5, Typical Industrial Uses](#).

Figure 200-2-5, Typical Industrial Uses

Typical Craftsman Industrial Uses	Typical Light Industrial Uses	Typical Heavy Industrial Uses
<ul style="list-style-type: none"> <li>• Apparel and Finished Fabric Products</li> <li>• Baked Goods and Food Production</li> <li>• Beverages, including Soft Drinks, Coffee</li> <li>• Liquor, Botanical Products</li> <li>• Brooms and Brushes</li> <li>• Canning and Preserving Food</li> <li>• Commercial Scale Copying and Printing</li> <li>• Construction Trade and Contractor office with equipment storage and repair or fabrication activities</li> <li>• Cut Stone and Cast Stone</li> <li>• Electronics Assembly</li> <li>• Electrical Fixtures</li> <li>• Engraving</li> <li>• Fabricated Metal Products</li> <li>• Film Making</li> <li>• Furniture and Fixtures</li> <li>• Glass</li> <li>• Household Textiles</li> <li>• Jewelry, Watches, Clocks, and Leather Products (no tanning)</li> <li>• Meat and Fish Products, no processing</li> <li>• Musical Instruments and Parts</li> <li>• Pottery, Ceramics, and Related Products</li> <li>• Printing, Publishing and Allied Industries</li> <li>• Shoes and Boot</li> <li>• Signs and Advertising</li> <li>• Silverware</li> <li>• Smithing</li> <li>• Taxidermy (with incidental tanning)</li> <li>• Textile, Fabric, Cloth</li> <li>• Toys and Athletic Goods</li> <li>• Upholstery</li> <li>• Woodworking</li> </ul>	<ul style="list-style-type: none"> <li>• Any Craftsman Industrial Use with or without retail outlet and with significant distribution</li> <li>• Agricultural Processing, unless otherwise defined</li> <li>• Aircraft Assembly and Testing</li> <li>• Apparel, Finished Products from fabric</li> <li>• Automobile, Truck, Boat, Recreational Vehicle and Trailer Manufacturing</li> <li>• Bicycle Manufacturing</li> <li>• Biomaterials</li> <li>• Cotton Wadding</li> <li>• Electrical Fixtures</li> <li>• Electronic/Electrical Equipment/Component Manufacturing</li> <li>• Engines and Motors Manufacturing/Rebuilding</li> <li>• Lasers and Optics</li> <li>• Laundering, Dry Cleaning, Dyeing</li> <li>• Lumber Mill</li> <li>• Machinery Manufacturing</li> <li>• Medical Equipment Manufacturing</li> <li>• Metal Products Manufacturing</li> <li>• Mobile/Manufactured Homes Manufacturing</li> <li>• Motor Testing</li> <li>• Pharmaceuticals</li> <li>• Plumbing and Heating Products</li> <li>• Printing, Publishing and Allied Industries</li> <li>• Stone Cutting and Distribution</li> <li>• Tool and Die Shop</li> </ul>	<ul style="list-style-type: none"> <li>• Cement Manufacturing</li> <li>• Concrete or Asphalt Plants</li> <li>• Heavy Machinery Manufacturing</li> <li>• Power Generation (not specifically defined elsewhere in this Chapter)</li> <li>• Steel Production</li> <li>• Vehicle Impoundment Lots</li> </ul>

**INFILTRATION** – Movement of surface water into the soil, where it is absorbed by plant roots, evaporated into the atmosphere, or percolates downward to recharge ground water.

**INVASIVE PLANT SPECIES** – Predominantly non-native tree, shrub, vine, or herbaceous species that grow or reproduce aggressively, usually because they have few or no natural predators, and which can so dominate that they out-compete many native plant species. Invasive Plant Species in Pennsylvania are listed on an inventory, as developed and updated from time to time by the Pennsylvania Department of Conservation of Natural Resources.

*Words and Terms That Start with J*

**JUNK** – Items or objects that are old, discarded, or not currently being used for the purpose or purposes for which they are designed or normally used, including but not limited to used or salvaged metals and their compounds or combination; used or salvaged rope; rubber; rotting wood; scrap iron; tires and snowmobile treads; parts for Motor Vehicles, boats, all-terrain Vehicles, Recreational Vehicles, snowmobiles, and/or Trailers; inoperable or dismantled refrigerators, stoves, dishwashers, dryers, washing machines, and furniture; and inoperable or dismantled lawn mowers, weed trimmers, snow blowers, snow plows, tractors, and any other machinery used for excavation, maintenance, or snow removal.

**JUNK VEHICLES** - Any unregistered, unlicensed or abandoned automobile, Truck, Trailer, motorcycle, bus, farm machinery, or other Motor Vehicle, including dismantled, or wrecked or Junked, or held or stored for scrap or for salvage. Junk Vehicle shall not mean any Motor Vehicle classified as an antique Motor Vehicle by the Motor Vehicle Code of the State of Pennsylvania (75 Pa.C.S.A. § 101 et seq.); said classification consisting of any self-propelled Vehicle, but not a reproduction thereof, owned and operated as an exhibition piece or collector's item, provided that such Vehicle shall have noted on its registration record the fact that it is such a special-purpose Vehicle, or any self-propelled Vehicle Manufactured more than 25 years prior to the current year, which is used for participation in club activities, exhibits, tours, parades, occasional transportation and similar uses, but is not used for general daily transportation

**JUNKYARD** – Any outdoor establishment, place of business, or activity which is maintained, used, or operated for storing, keeping, buying, or selling Junk; for the maintenance or operation of a garbage dump, sanitary landfill, or scrap metal processor, or for storing, keeping, buying, or selling wrecked, scrapped, ruined, or dismantled Motor Vehicles, or motor parts, or both.

*Words and Terms That Start with K*

**KEEPING OF LIVESTOCK, ACCESSORY** – The keeping of Equine, bovine, or swine class, including goats, sheep, mules, horses, hogs, cattle, and other grazing animals, and all ratites, including, but not limited to, ostriches, emus, and rheas for non-Commercial purposes.

*Words and Terms That Start with L*

**LAND DEVELOPMENT** – Any of the following activities:

- 1) The improvement of one Lot or two or more Contiguous Lots, Tracts, Or Parcels of land for any purpose involving:
  - a) A group of two or more residential or nonresidential Buildings, whether proposed initially or cumulatively, or a single nonresidential Building on a Lot or Lots regardless of the number of occupants or tenure; or
  - b) The division or allocation of land or space, whether initially or cumulatively, between or among two or more existing or prospective occupants by means of or for the purpose of Streets, common areas, leaseholds, Condominiums, Building groups, or other features.
- 2) A Subdivision of land.

Excluded from this definition of Land Development are the following:

- 1) The conversion of an existing single-family detached dwelling or single-family semi-detached dwelling into not more than three residential units, unless such units are intended to be a Condominium;
- 2) The addition of an Accessory Building, including farm Buildings, on a Lot or Lots subordinate to an existing Principal Building; or
- 3) The addition or conversion of Buildings or rides within the confines of an enterprise which would be considered an amusement park. For the purposes of this subclause, an amusement park is defined as a Tract or area used principally as the location for permanent amusement Structures or rides. This exclusion shall not apply to newly acquired acreage by an amusement park until initial plans for the expanded area have been approved by proper authorities.

**LAND DISTURBANCE** - Any activity, which exposes soils, alters topography and/or alters woody vegetation, except for removal of a safety hazard, diseased trees, or Invasive Plant Species.

**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 other Person having a proprietary interest in land.

**LANDSCAPING** – The planting of turf, trees, shrubs, and other appropriate vegetative materials and ground cover within the open areas of a Lot other than for agricultural purposes, and including the maintenance and replacement thereof, for the purposes of erosion control, retention of precipitation, Protection against the elements and promotion of human comfort and welfare.

**LIBRARY/MUSEUM** – A Structure open to the general Public housing educational, cultural, artistic, or Historic information, resources, and exhibits. Includes such Uses as libraries, museums, aquariums, planetariums, and exhibitions. May also include theater space, food service, and a gift shop.

**LIVESTOCK** – Those class of animals that are customarily kept and housed outside the home or in enclosures such as pens, barns, corrals or paddock areas. Livestock includes, but is not limited to, horses, cattle (beef and dairy), llamas, mules, swine, sheep, goats, poultry, and fowl. Animals customarily considered to be domesticated such as dogs, cats and other small pets are not considered Livestock under this Ordinance.

**LIVE-WORK UNIT** – A Building or portion of a Building:

- 1) That combines a Commercial or manufacturing activity allowed in the zone with a residential living space for the Owner of the Commercial or manufacturing business, or the Owner's employee, and that Person's household;
- 2) Where the resident Owner or employee of the business is responsible for the Commercial or manufacturing activity performed; and
- 3) Where the Commercial or manufacturing activity conducted takes place subject to a valid business license associated with the Premises.

**LOADING SPACE** – A space accessible from a street on a Lot for the temporary use of Vehicles for the purpose of loading and unloading merchandise or materials.

**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. Such an area shall be separately described by metes and bounds within a legal description which is recorded in the office of the Recorder of Deeds of Chester County with a deed and, if one exists, by an approved Subdivision plan so recorded. Every Lot shall have Frontage on a Public or private street. Lot types are illustrated in **Figure 200-2-7**.

- 1) **LOT, CORNER** – A Lot at the junction of and Abutting on two or more intersecting Streets or private Roads or at the point of abrupt change of a single Street or private Road, where the interior angle is less than 135 degrees and the radius of the Street or private Road line is less than 100 feet.
- 2) **LOT, DOUBLE FRONTAGE** – See LOT, THROUGH
- 3) **LOT, FLAG** – A Lot that does not fulfill the minimum Street Frontage requirement for the respective Zoning district, but that does have sufficient Lot width away from the Lot's Street Frontage, and is configured so that access to the Public Street is by a narrow staff portion containing a private Driveway accessing a Building site. No more than two such Lots may be adjacent to one another, and where two Lots are provided, a shared Driveway may be provided for the two Lots. The front Yard of a flag Lot is measured from the place parallel to the Street where the Lot width complies with the underlying Zoning district for Lot width. Once created, a flag Lot cannot be subdivided into smaller Lots.
- 4) **LOT, INTERIOR**. – A Lot other than a Corner Lot with only one Frontage on a Street other than an Alley.
- 5) **LOT, REVERSE FRONTAGE** – A Lot extending between and having Frontage on an arterial Street and a minor Street, and with vehicular access solely from the latter.
- 6) **LOT, THROUGH** – A Lot other than a Corner Lot with Frontage on more than one Street other than an Alley. Through Lots with Frontage on two Streets may be referred to as double Frontage Lots.

*Figure 200-2-9, Lot Types*



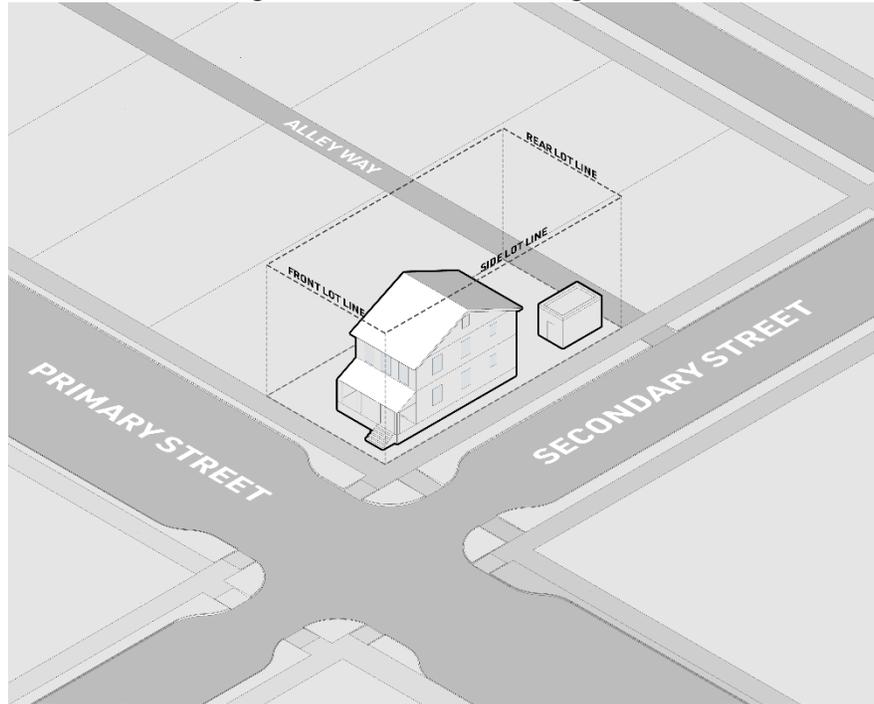
**LOT AREA** – The area contained within the property lines of individual parcels of land, excluding any area within a Street Right-of-Way, but including the area of any Easement.

**LOT DEPTH** – The horizontal distance measured between the Street Right-of-Way line and the rear property line. On corner Lots, reverse Frontage Lots, and triangular or other irregularly shaped Lots, the depth shall be measured along the property line adjacent to the side Yard which extends from the Street of address to the opposite property line. Where a rear Yard is formed by angled or offset property lines, the Lot depth shall be measured as the weighted average distance from the Street Right-of-Way line to the farthest rear property line.

**LOT LINE** – A line of record which divides one Lot from another Lot, or from a Public or private Road or any other Public space. Where a Lot Abuts a Public Right-of-Way, the Lot line for regulatory purposes shall be the Right-of-Way line.

- 1) **LOT LINE, FRONT** — The line separating the Lot from the existing Street right-of-way line.
- 2) **LOT LINE, REAR** — Any line, except the front Lot line, which is parallel to, or within 45° of being parallel to, and does not intersect any Street Line.
- 3) **LOT LINE, SIDE** — Any Lot line which is not a front Lot line or rear Lot line

*Figure 200-2-10, Lot Line Diagram*



**LOT OF RECORD** – A Lot identified on a Subdivision plan or on a deed or other instrument of conveyance recorded in the Office of the Recorder of Deeds in and for Chester County, Pennsylvania.

**LOT, WIDTH** – The horizontal distanced measured along the Front Setback Line.

*Words and Terms That Start with M*

**MANUFACTURED HOME** – Any Structure intended for or capable of permanent human habitation, with or without wheels, and capable of being transported or towed from one place to the next, in one or more pieces, by whatsoever name or title it is colloquially or Commercially known but excluding transport Trucks or vans equipped with sleeping space for a driver or drivers, and travel Trailers. Manufactured homes placed in parks shall meet the supplemental regulations for Manufactured Home Community. Manufactured houses placed on individual Lots shall be considered Single-Unit Detached Dwellings and be bound by the requirements there imposed. Also known as Mobile Home.

**MANUFACTURED HOME COMMUNITY** – A parcel (or Contiguous Parcels of land) that has been so designed and improved that it contains three or more Manufactured Home spaces for the placement thereon of Manufactured Homes. Also known as Mobile Home Community.

**MASSAGE** – Any method of pressure on or friction against or stroking, kneading, rubbing, tapping, pounding, vibrating or stimulating of the external soft parts of the body with the hands or with the aid of any mechanical or electrical apparatus or appliance, with or without such supplementary aids as rubbing

alcohol, liniments, antiseptics, oils, powder, creams, lotions, ointments, or other similar preparations commonly used in this practice.

**MAINTENANCE AND REPAIR** – Work that does not alter the appearance or harm the stability of exterior features of a Building.

**MANUFACTURE** – A function involving either the processing or production of materials, goods, or products.

**MANURE** – The fecal and urinary excrement of Livestock and poultry, often containing some spilled feed, bedding or litter.

**MANURE STORAGE AREA** – A Structure or other improvement built to store Manure for future use, or disposal. Types of storage facilities are as follows: underground storage, in ground storage, earthen bank, Stacking area, and above-ground storage.

**MEDICAL CLINIC** – A licensed institution providing same-day, walk-in, or urgent medical care and health services to the community, primarily ill or injured out-patients, which is not a hospital, and which is not a medical office, and which shall not include Treatment Facilities. Provision of an indoor waiting area for use by individuals when a portion of the facility is not opened for operation is required, so that clients will not be required or allowed to queue for services outdoors.

**MEDICAL MARIJUANA** – Refers to using the whole unprocessed marijuana plant or its basic extracts to treat a disease or symptom.

**MEDICAL MARIJUANA ACADEMIC RESEARCH CENTER** – An accredited medical school within this commonwealth that operates or partners with an acute care hospital licensed within Pennsylvania.

**MEDICAL MARIJUANA DISPENSARY** – A Person, including a natural Person, corporation, partnership, association, trust or other entity, or any combination thereof, which holds a permit issued by the Pennsylvania Department of Health to dispense Medical Marijuana pursuant to the Pennsylvania Medical Marijuana Act, Act of April 17, 2016, P.L. 84, No. 16.

**MEDICAL MARIJUANA GROWER/PROCESSOR** – A Person, including a natural Person, corporation, partnership, association, trust or other entity, or any combination thereof, which holds a permit from the Department of Health to grow and process Medical Marijuana.

**MICRO WIRELESS FACILITY** – A Small Wireless Communications Facility that: 1) Does not exceed two cubic feet in volume; and 2) Has an exterior Antenna no longer than 11 inches.

**MIXED-USE BUILDING** – A mixed-use Building integrates nonresidential and residential Uses within the same Building where nonresidential Uses are permitted on the first floor of the Building and multifamily Dwelling Unit(s) are permitted on the upper floor(s).

**MOBILE FOOD FACILITY** – A movable retail food facility, such as a stand, Vehicle, cart, basket, box or similar Structure, from which food is stored, prepared, processed, distributed or sold and the facility.

**MODIFICATION OF A WIRELESS COMMUNICATIONS FACILITY (MODIFICATION OF A WCF)** – The improvement, upgrade, or expansion of existing Wireless communications facilities or Base Stations on an existing Wireless Support Structure or the improvement, upgrade, or expansion of the Wireless communications facilities located within an existing Equipment Compound, if the improvement, upgrade, expansion or replacement does not substantially change the physical dimensions of the Wireless Support Structure.

**MONOPOLE** – A WCF or site which consists of a single pole Structure, designed and erected on the ground or on top of a Structure, to support communications Antennas and connecting appurtenances.

**MOTEL** – A Building or group of Buildings, whether detached or in connected units, used as individual sleeping or Dwelling Units, designed with separate entrances, and designed for year round occupancy, primarily for transient automobile travelers and providing for accessory off-Street parking facilities. The term "motel" includes Buildings designated as tourist courts, tourist cabins, motor lodges and similar terms.

**MOTOR VEHICLE** – A Vehicle that is self-propelled except an electric personal assistive mobility device or a Vehicle which is propelled solely by human power.

**MUNICIPAL AUTHORITY** – A body politic and corporate created pursuant to the act of May 2, 1945 (P>L> 382, No. 164) known as the "Municipality Authorities Act of 1945."

*Words and Terms That Start with N*

**NATIVE SPECIES** – A species of plant or other organism that currently or previously inhabited or grew in a specified location, and which was not introduced to that location as a result of human activity, either intentional or accidental. The term "native" species generally refers to a species whose range was located within a large area like a continent or a nation. The term "indigenous" species is typically used to refer to a species whose original range extended into a smaller area like a state, county, or watershed.

**NATURE PRESERVE** – Areas in which human activities are very limited and where the natural environment is protected from human-made changes by a conservancy or conservation Easement. The nature preserve includes woodland Preservation, game preserves, and wildlife sanctuaries.

**NEW CONSTRUCTION** – Structures for which the Start of Construction commenced on or after the effective start date of this Ordinance and includes any subsequent improvements to such Structures.

**NIGHTTIME HOURS** – The time between 10 PM and sunrise, or 7 Am (whichever comes earlier). For businesses and events with operating hours later than 10 PM, Nighttime Hours shall begin one hour after closing.

**NOISE** — Any Sound emitted by a Person, an appliance, equipment, instrument, other device or an animal.

**NOISE DISTURBANCE**—Any Sound which:

- 1) Endangers or injures the safety of health or humans or animals; or
- 2) Endangers or injures personal or real property; or
- 3) Exceeds the Noise levels as noted in [Article XI, Nuisances](#).

**NONCONFORMING LOT** – A Lot, of which the area or dimension of which was lawful prior to the adoption or Amendment of a Zoning ordinance, but now fails to conform to the requirements of the Zoning district in which it is located by reasons of such adoption or Amendment.

**NONCONFORMING STRUCTURE** – A Structure or part of a Structure manifestly not designed to comply with the applicable use or extent of provisions in a Zoning ordinance or Amendment heretofore or hereafter enacted, where such Structure lawfully existed prior to the enactment of such ordinance or Amendment or prior to the application of such ordinance or Amendment to its location by reason of annexation. Such Nonconforming Structures include, but are not limited to, nonconforming Signs.

**NONCONFORMING USE** – A Use, whether of land or of Structure, which does not comply with the applicable Use provisions in a Zoning ordinance or Amendment heretofore or hereafter enacted, where such Use was lawfully in existence prior to the enactment of such ordinance or Amendment, or prior to the application of such ordinance or Amendment to its location by reason of annexation.

**NONCONFORMITY, DIMENSIONAL** – Any aspect of a land use that does not comply with any size, Height, bulk, Setback, distance, Landscaping, coverage, screening, or any other design or performance standard specified by this Ordinance, where such dimensional Nonconformity lawfully existed prior to the adoption of this Ordinance or Amendment thereto.

**NON-TOWER WIRELESS COMMUNICATIONS FACILITY (NON-TOWER WCF)** — All non-tower Wireless communications facilities, including but not limited to Antennas and Related Equipment. Non-tower WCFs shall not include support Structures for Antennas or any Related Equipment that is mounted to the ground or at ground level.

**NORMAL AGRICULTURAL OPERATION** – The activities, practices, equipment and procedures that farmers adopt, use or engage in the production and preparation for market of poultry, livestock and their products

and in the production, harvesting and preparation for market or use of agricultural, agronomic, horticultural, silvicultural and aquacultural crops and commodities and is: 1) not less than ten contiguous acres in area; or 2) less than ten contiguous acres in area but has an anticipated yearly gross income of at least \$10,000. The term includes new activities, practices, equipment and procedures consistent with technological development within the agricultural industry. Use of equipment shall include machinery designed and used for agricultural operations, including, but not limited to, crop dryers, feed grinders, saw mills, hammer mills, refrigeration equipment, bins and related equipment used to store or prepare crops for marketing and those items of agricultural equipment and machinery defined by the act of December 12, 1994 (P.L. 944, No. 134), 2 known as the Farm Safety and Occupational Health Act. Custom work shall be considered a normal farming practice.

**NUTRIENT MANAGEMENT ACT** – The PA Nutrient Management Act of 1993, which is applicable to agricultural operations with over 2,000 pounds of animal weight per acre which generate or utilize Manure. The Act requires the development of a plan demonstrating that nutrients that are land applied do not exceed crop uptake.

*Words and Terms That Start with O*

**OBSTRUCTION** – Any Structure, growth, or other object, including a mobile object, which exceeds a limiting Height set forth by this Ordinance.

**OFFICE** – A category of Uses for businesses that involve the transaction of affairs and/or the training of a profession, service, industry, or government. Patrons of these businesses usually have set appointments or meeting times; the businesses do not typically rely on walk-in customers.

1) Typical Office Uses.

- a) Architecture/Engineering/Design
- b) Broadcasting, Recording, and Sound Studio
- c) Business Consulting
- d) Construction Trade and Contractor (office only)
- e) Charitable Institutions
- f) Computer Programming and Support
- g) Detective Services
- h) Educational Services (tutor and Testing)
- i) Employment Agency
- j) Financial and Insurance
- k) Legal Services
- l) Management Services
- m) Medical, Optical, and Dental Offices (other than in hospitals or on a hospital campus, and other than clinics)
- n) News Agency
- o) Physical Therapy/Physical Rehabilitation
- p) Public Relations and Advertising

- q) Property Development
- r) Real Estate and Apartment Finders
- s) Support Offices for other uses
- t) Surveying
- u) Training Center

**ON-LOT SEWER SERVICE** – The disposal of sewage by use of a system solely contained within the confines of a Lot on which the use it serves is located as approved by the Chester County Health Department and/or the Pennsylvania Department of Environmental Protection.

**ON-LOT WATER SERVICE** – A safe, adequate and healthful potable water supply to a single user from a private well or set of wells, as approved by the Chester County Department of Health, and which are located within the confines of the Lot on which the use it serves is located.

**OPEN AIR MARKET** – An outdoor market for the retail sale of new or used merchandise, produce or other farm products, whether operated by a single vendor or composed of stalls, stands or spaces rented or otherwise provided to vendors. The term does not include the outside display of merchandise as an incidental part of retail activities regularly conducted from a permanent Building or other areas immediately adjacent to, and upon the same Lot as, such Building. The term also does not include merchandise sold at festivals or other special events, temporary in duration, at which the display and sale of merchandise is incidental to the primary cultural, informational or recreational activities of such festival or special event.

**OPEN SPACE** – A parcel or parcels of land or an area of water, or a combination of land and water, within a Development site, designed and intended for the use and enjoyment by the residents of such Development and possibly the general Public. Open Space shall be substantially free of Structures, but may contain such improvements as are in the finally approved Development plan, and shall not include individually owned private Yards, except in the case of approved conservancy Lots. Open Space is permanently restricted against further Development. Open Space may be a combination of natural or naturalized areas plus more intensely managed areas (such as lawn, recreational areas or play fields).

**OPEN SPACE, COMMON** – A parcel or parcels of land or an area of water, including natural areas, or a combination of land and water within a Development site and designed and intended for the use or enjoyment of residents of a Development, not including Streets, off-Street parking areas, and areas set aside for Public facilities.

**OUTDOOR DINING AREA** – An area on a Public sidewalk or other Publicly accessible Paved Area directly Abutting and adjacent to and/or upon the same Lot as an associated eatery or any Premises licensed by the Pennsylvania Liquor Control Board pursuant to 40 Pa. Code § 7.21, as amended, which is used for the purpose of furnishing food and beverage to patrons for consumption therein.

**OUTDOOR DISPLAY AND SALES** – The Outdoor Display and Sales of merchandise or other items offered for sale or advertisement of a Principal Retail or Service Use.

**OUTDOOR SALES LOT.** A Use involving the sale of goods or merchandise to businesses and/or the general Public, where the majority of the goods are stored or displayed outdoors. Outdoor Sales Lot include such uses as: the sale and Rental of automobiles, Trucks, Trailers, boats, and Recreational Vehicles; and the outdoor sale of Building materials, landscape materials, and garden supplies.

**OUTDOOR STORAGE YARD** – A Lot used primarily for the outdoor storage of Construction equipment parts, materials and supplies, and parking of wheeled construction equipment. This Use does include associated on-Site offices and indoor storage as an accessory use to the principal use.

**OWNER** – Owner means the Person with legal title to real property, a Building, or Structure.

*Words and Terms That Start with P*

**PARK** — A use of land for active or passive, Public or private, outdoor space, including such uses as parks, plazas, greens, pocket parks, reflective areas, gardens, playfields, playgrounds, recreation centers, and tot Lots for general recreation, athletics, and leisure. May include Historic Structures or monuments, botanical gardens, ornamental gardens, or arboretums. Accessory Uses may include picnic areas, fishing, ziplines, and Swimming Pools.

**PARKING LOT** — An offset surfaced area designed solely for the parking of Motor Vehicles, including Driveways, passageways and maneuvering space.

**PARKING, PRINCIPAL** — A Lot that does not contain a permitted Building of more than 1,000 square feet, is not used for Open Space, and is primarily used for the exclusive parking of Vehicles.

**PARKING SPACE** — A reasonably level area, available for the parking of one Motor Vehicle consisting of a dustless, All-Weather Surface, and shall include either covered Garage space or uncovered Parking Lot space located off the Right-of-way. For the purposes of calculating space requirements, Driveways or single- family Lots can be considered.

**PARTY WALL** — A vertical or horizontal wall that separates two Buildings.

**PAVED AREA** — The total surface area of a Lot which is covered by materials that do not absorb rainfall and runoff, such as parking areas, Driveways, walks and similar surfaces.

**PAWN SHOP/CHECK CASHING** — An establishment primarily engaged in the businesses of lending money on the security of pledged goods left in pawn; purchasing tangible personal property to be left in pawn on the condition that it may be redeemed or repurchased by the seller; or providing cash to patrons for, payroll, personal, and bank checks.

**PEN** – A fenced area designed to contain the animal to a restricted area and prevent animals roaming at large.

**PENNANT** – A triangular or irregular piece of fabric or other material, commonly attached in strings or strands, or supported on small poles intended to flap in the wind.

**PENNSYLVANIA CONSTRUCTION CODE (PCC) ACT** – Act of Nov. 10, 1999, P.L. 491, No. 45 as amended. The statewide Building code adopted by the Pennsylvania General Assembly in 1999 applicable to New Construction in all municipalities whether administered by the municipality, a third party or the Department of Labor and Industry. Applicable to residential and Commercial Buildings, the code adopted the International Residential Code (IRC) and the International Building Code (IBC), by reference as the Construction standard applicable with the Commonwealth Floodplain Construction. For coordination purposes, references to the above are made specifically to various sections of the IRC and the IBC such references shall be based on the most recently adopted editions thereof. Also see UNIFORM CONSTRUCTION CODE.

**PENNSYLVANIA DEPARTMENT OF ENVIRONMENTAL PROTECTION (DEP)** - The Department of Environmental Protection of the Commonwealth of Pennsylvania.

**PENNSYLVANIA MUNICIPALITIES PLANNING CODE (MPC)** – Act 247 of 1968, P.L. 805, as reenacted and amended, 53 P.S. § 10101, et seq.

**PERSON** – Includes one or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in cases under title 11 of the United States Code, receivers, and fiduciaries.

**PERVIOUS SURFACE** – A Pervious Surface is a surface that allows the percolation of water into the underlying soil. Pervious Surfaces include grass, mulched groundcover, planted areas, vegetated Roofs, permeable paving as well as Porches and decks erected on pier foundations that maintain the covered Lot surface's water permeability.

**PESTICIDE** – Any substance or mixture of substances intended for use in preventing, destroying, repelling, sterilizing, or mitigating any insects, rodents, nematodes, predatory animals, fungi, weeds, or other forms of plant or animal life.

**PETROLEUM SUBSTANCES** – Oil petroleum of any kind and in any form, including crude oil and derivatives of crude oil. It may be alone, as a sludge, as oil refuse, or mixed with other wastes.

**PLAINLY AUDIBLE** – Any Sound that can be detected by a Person of normal sensibilities using his or her unaided Hearing facilities.

**PLANNING COMMISSION** – The Planning Commission of New Garden Township, Chester County, PA.

**PNDI** — Pennsylvania Natural Diversity Inventory.

**POLICE/FIRE/EMS** — A facility providing Public safety and Emergency services; training facilities, locker rooms, and limited overnight accommodation may also be included.

**PORCH** – A non-enclosed or semi-enclosed Roof covered Accessory Structure adjoining a first floor entrance to a Building.

**PRE-COMMERCIAL TIMBER STAND IMPROVEMENT** – A forest practice, such as thinning or pruning, which results in better growth, Structure, specific composition, or health for the residual stand but does not yield a net income to the Landowner, usually because any trees cut are of poor quality, too small or otherwise of limited marketability or value.

**PREMISES** – The property upon which the activity is conducted as determined by physical facts rather than property lines. It is the land occupied by the Buildings or other physical uses that are necessary or customarily incident to the activity, including such Open Spaces as are arranged and designed to be used in connection with such Buildings or uses.

**PRESERVATION OR PROTECTION** – When used in connection with natural and Historic Resources, shall include means to conserve and safeguard these resources from wasteful or destructive use but shall not be interpreted to authorize the unreasonable restriction of forestry, mining or other lawful uses of natural resources.

**PRIMARY SURFACE** — A surface longitudinally centered on a Runway and extending 200 feet beyond each end of that Runway. The width of the Primary Surface shall be 500 feet. The elevation of any point on the Primary Surface shall be the same as the elevation of the nearest point on the Runway center line.

**PRIME AGRICULTURAL LAND** – Land used for agricultural purposes that contains soils of the first, second or third class, or is considered to be unique agricultural land, all as defined by the United States Department of Agriculture Natural Resource and Conservation Services County Soil Survey.

**PRINCIPAL BUILDING** – A Building in which the primary use of the Lot on which the Building is located is conducted.

**PRIVATE CLUB** — An establishment that operates for the good of the club’s membership for legitimate purposes of mutual benefit, entertainment, fellowship, or lawful convenience. A Private Club must reserve its facilities for members and must have genuinely exclusive membership criteria. A Private Club must adhere to its constitution and bylaws, hold regular meetings open to its members, conduct its business

through officers who are regularly elected, admit members by written application, investigation and ballot, charge and collect dues from elected members, and maintain records as required by law. The sale of alcohol must be secondary to the actual reason for the club's existence and be licensed by the Pennsylvania Liquor Control Board. The Township may conduct routine inspections of the Premises to ensure the absence of illegal activity on the Premises, adequate maintenance of the interior and exterior of the Premises, the absence of Public disturbance or Nuisance, and compliance with the Zoning and other applicable regulations. If the Private Club is rented out to a non-member for an event, the Private Club must be considered a Private Club with an accessory Event Venue use.

**PUBLIC** – Owned, operated, and/or maintained, by the Township, its authority, a municipal-supported fire company, or a municipal-supported ambulance association; or a reference to, of, or concerning people as a whole.

**PUBLIC HEARING** – A formal meeting held pursuant to Public notice by the New Garden Township Board of Supervisors or Planning Commission intended to inform and obtain Public comment, prior to taking action in accordance with the Pennsylvania Municipalities Planning Code.

**PUBLIC MEETING** – A forum held pursuant to notice under 65 Pa.C.S. Ch. 7 (relating to open meetings.)

**PUBLIC NOTICE** – Notice published once each week for two successive weeks in a newspaper of general circulation in New Garden Township. Such notice shall state the time and place of the Hearing and the particular nature of the matter to be considered at the Hearing. The first publication shall not be more than 30 days and the second publication shall not be less than seven days from the date of the Hearing.

**PUBLIC SEWER** – A shared system for the collection and disposal of sewage that is owned and operated by a municipality, Public Utility, or Municipal Authority in which sewage is conveyed by interceptor to a publicly operated treatment plant and disposed of through means approved by the Chester County Health Department and the Pennsylvania Department of Environmental Protection.

**PUBLIC WATER** – A shared system for supplying and distributing water from a common source to dwellings and other Buildings that is owned and operated by a municipality, Public Utility, or Municipal Authority.

*Words and Terms That Start with Q*

Section reserved for future use.

*Words and Terms That Start with R*

**REAL ESTATE** -Any fee, leasehold or other estate or interest in, over or under land, including Structures, fixtures and other improvements and interests which by custom, usage or law pass with a conveyance of land though not described in the contract of sale or instrument of conveyance. The term includes parcels with or without upper or lower boundaries and spaces that may be filled with air or water.

**RECREATION FACILITY, COMMERCIAL OR PRIVATE** – A privately-owned and operated indoor and/or outdoor facility used for arcade games, mini-golf, swimming, bowling, pool and billiards halls, tennis club, rink, track, Alley, cage, course, field throwing, skate parks, pickleball/racquetball/handball courts, or other similar types of uses in which the patrons pay a fee and/or are members to participate in or view a recreational or entertainment physical activity, including activities which include motorized Vehicles and the like.

**RECREATION FACILITY, PUBLIC** – A facility owned by the Township or a Public or quasi-Public body and are available for use by the general Public for Non-Commercial leisure and recreation including Township-owned recreation areas and playgrounds.

**RECREATIONAL VEHICLE** – A Vehicle built on a single chassis, not more than for hundred (400) square feet measured at the largest horizontal projections, designed to be self-propelled or permanently towable by a consumer-owned Vehicle, not designed for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use that complies with all applicable Federal Vehicle regulations and is certified by the Manufacturer as complying with NFPA 1192 Standard on Recreational Vehicles or ANSI A119.5 Park Model Recreational Vehicle Standard and includes the following types: motor home, travel Trailer, fifth wheel travel Trailer, folding camping Trailer, Truck camper, and park model RV. RVs regardless of size are not dwellings.

**REDEVELOPMENT** — The expansion, Enlargement, or alternation of an existing Building or group of Buildings that involves 20% or more of the Gross Floor Area of an existing Building or group of Buildings.

**REGISTERED DESIGN PROFESSIONAL** – A professional engineer, land surveyor or professional geologist licensed by the State Registration Board for Professional Engineers, Land Surveyors and Geologists under the act of May 23, 1945 (P.L. 913, No. 367), known as the "Engineer, Land Surveyor and Geologist Registration Law, " a licensed architect who is licensed by the State Architects Licensure Board under the act of December 14, 1982 (1982 P.L. 1227, No. 281), known as the "Architects Licensure Law," a landscape architect who is licensed by the State Board of Landscape Architects under the act of January 24, 1966 (1965 P.L. 1527, No. 535), known as the "Landscape Architect's Registration Law, " or any corporation or association, including professional corporations, organized or registered under the act of December 21, 1988 (P.L. 1444, No.177), known as the "General Association Act of 1988," practicing engineering, landscape architecture or surveying in this Commonwealth.

**RELATED EQUIPMENT** — Any piece of equipment related to, incidental to, or necessary for the operation of a tower-based WCF or Non-tower WCF. By way of illustration, not limitation, "Related Equipment" includes generators and Base Stations.

**RENTAL OF REAL ESTATE** – A procedure by which services or personal property are temporarily transferred to another Person for a specific time period for compensation.

**REPAIR** – A function involved in correcting deficiencies of products that affect its performance, appearance, or both.

**REPLACEMENT OF A WIRELESS COMMUNICATIONS FACILITY (REPLACEMENT OF WCF)** – The replacement of existing Wireless communications facilities on an existing Wireless Support Structure or within an existing Equipment Compound due to maintenance, Repair, or technological advancement with equipment composed of the same wind loading and structural loading that is substantially similar in size, weight, and Height as the Wireless communications facilities initially installed and that does not substantially change the physical dimensions of the existing Wireless Support Structure.

**REPORT** – Any letter, review, memorandum, compilation or similar writing made by any body, board, officer or consultant other than a solicitor to any other body, board, officer or consultant for the purpose of assisting the recipient of such Report in the rendering of any Decision or Determination. All Reports shall be deemed recommendatory and advisory only and shall not be binding upon the recipient, board, officer, body, or agency, nor shall any Appeal lie therefrom. Any Report used, received or considered by the body, board, officer or agency rendering a Determination or Decision shall be made available for inspection to the Applicant and all other parties to any proceeding upon request.

**RESEARCH, EXPERIMENTAL, AND TECHNOLOGY CENTER** – Research, Experimental, and Technology Centers (RETCs) conduct causal, preliminary, descriptive, or observational research finding the cause-and-effect relationships between variables. RETC areas include qualitative, retrospective, prospective, marketing and advertising and correlational research. No manufacturing or storage of dangerous or volatile materials is undertaken at RETCs.

**RETAIL, ACCESSORY** – A retail Use with a Total Floor Area under 3,000 square feet or 30% of the Total Floor Area of the Principal Use, whichever is less. Only products produced on-Site may be sold.

**RETAIL, GENERAL** – A retail Use with a Gross Floor Area of 3,000 square feet or greater and outdoor sales limited to no more than 25% percent of the indoor Gross Floor Area of the retail Use. General retail includes such Uses as those listed in [Figure 200-2-11, Typical Retail Uses](#).

**RETAIL, NEIGHBORHOOD** – A retail Use with a Gross Floor Area of less than 3,000 square feet and outdoor sales limited to no more than 10% of the indoor Gross Floor Area of the retail Use. Neighborhood retail includes such uses as those listed in [Figure 200-2-11, Typical Retail Uses](#). In the event a specific Neighborhood Retail Use is not identified in [Figure 200-2-11, Typical Retail Uses](#), the Zoning Officer shall have the authority to review the proposed Use and the Applicant shall submit to the Zoning Officer such additional information as the Zoning Officer deems necessary to render an official Determination under this Chapter.

Figure 200-2-11, Typical Retail Uses

Typical Neighborhood Retail Uses	Typical General Retail Use
<ul style="list-style-type: none"> <li>• Antique Shop</li> <li>• Apparel, Shoes, and/or Accessory Store</li> <li>• Small Appliance Store</li> <li>• Art Gallery and Sales</li> <li>• Art and/or Education Supplies Bakery with no distribution</li> <li>• Bicycle and Accessory Sales</li> <li>• Book and/or Video Store</li> <li>• Camera and Photo Supply Store</li> <li>• China and/or Glassware</li> <li>• Cigar, Cigarettes, Tobacco Shop</li> <li>• Coin and/or Philatelic Store</li> <li>• Craft Store</li> <li>• Discount Variety Store (e.g., dollar stores or five and dime stores)</li> <li>• Drug and/or Cosmetics Store, except Medical Marijuana Dispensary</li> <li>• Electronics Sales</li> <li>• Fabric and Sewing Supply Store</li> <li>• Florist</li> <li>• Framing Shop</li> <li>• Furrier Shop, no storage</li> <li>• Garden Supply and/or Nursery</li> <li>• Gift, Novelty and Souvenir Shop</li> <li>• Grocery Store</li> <li>• Hardware Store</li> <li>• Home Furnishings and Accessories</li> <li>• Jewelry and/or Gem Store</li> <li>• Luggage and/or Leather Goods</li> <li>• Magazine and/or Newspaper Store</li> <li>• Music and/or Musical Instruments</li> <li>• Office Machines and Supply</li> <li>• Optical Goods</li> <li>• Paint and Wallpaper Store</li> <li>• Party Supply Shop</li> <li>• Pet and/or Pet Supplies Shop</li> <li>• Public Market</li> <li>• Secondhand sales of any item permitted for sale new</li> <li>• Specialty Food (Candy, Fish, Produce, Prepared Foods, etc.)</li> <li>• Sporting Goods</li> <li>• Stationery and Paper Store</li> <li>• Toy and/or Baby Supplies</li> </ul>	<ul style="list-style-type: none"> <li>• All “Typical Neighborhood Retail Uses” 3,000 square feet and over</li> <li>• Appliance Sales</li> <li>• Automotive Supply (no service)</li> <li>• Computer Software Sales and Leasing</li> <li>• Department Store</li> <li>• Grocery Store</li> <li>• Medical Supply Store</li> <li>• Motorcycle and Motor Scooter Sales, limited outdoor display</li> <li>• Nursery</li> </ul>

**RIGHT-OF-WAY (ROW)** – An area acquired or reserved for Streets, Street trees (or Landscaping), drainage, utilities and pedestrian ways owned by a Public or private Person. When used in the regulation of Wireless Telecommunications Facilities, the surface of and space above and below any real property in the Township

in which the Township has a regulatory interest, or interest as a trustee for the Public, as such interests now or hereafter exist, including, but not limited to, all Streets, highways, avenues, Roads, Alleys, Shared Use Pathways, sidewalks, tunnels, viaducts, bridges, skyways, or any other Public place, area or property under the control of the Township, and any unrestricted Public or Utility Easements established, dedicated, platted, improved or devoted for Utility purposes, but excluding lands other than Streets that are owned by the Township. The phrase “in the Right(s)-Of-Way” means in, on, over, along, above and/or under the Right(s)-Of-Way.

**RIPARIAN BUFFER** – A Riparian Buffer is an area of trees and other vegetation adjacent to a Watercourse that forms a transition area between the aquatic and terrestrial environment. The Riparian Buffer provides the following benefits: reduces the amount of nutrients, sediments, Pesticides, and other harmful substances that reach Watercourses, Wetlands, and other surface water bodies; provides for shading of the aquatic environment to moderate temperatures and protect fish habitat; provides organic matter which provides food and habitat for bottom dwelling organisms essential to the food chain; increases Stream bank stability and reduces Stream bank erosion and sediment production; conserves natural features important to land and water features (e.g., headwater areas, Groundwater recharge zones, Streams, prime wildlife habitat); and conserves natural, scenic, and recreation areas and promotes the functioning of interconnected natural greenway lands.

**ROAD** – See STREET.

**ROOF** – An Impervious Cover of a Building or Structure.

**ROOSTER** – Male poultry who is: 1) six months or older; 2) has full adult plumage; or 3) capable of crowing.

**RUNWAY** – A defined area of an airport prepared for landing and takeoff of aircraft along its length.

**RUNWAY, NON-PRECISION INSTRUMENT** – A Runway having an existing instrument approach procedure utilizing air navigation facilities with only horizontal guidance, or area type navigation equipment, for which a straight-in non-precision instrument approach procedure has been approved or planned.

**RUNWAY, OTHER THAN UTILITY** – A Runway that is constructed for and intended to be used by propeller driven aircraft of greater than 12,500 pounds maximum gross weight and jet powered aircraft.

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

**RUNWAY, UTILITY** – A Runway that is constructed for and intended to be used by propeller driven aircraft of 12,500 pounds maximum gross weight or less.

**RUNWAY, VISUAL** – A Runway intended solely for the operation of aircraft using visual approach procedures.

*Words and Terms That Start with S*

**SAFETY FAN** – An area on a Shooting Range Facility designed to contain all projectiles fired from a shooting range. The Safety Fan consists of three parts: the direct fire zone, the safety zone, and the ricochet zone. The direct fire zone is that area into which all shots are fired during the normal course of shooting.

**SCHOOL, HIGHER EDUCATION AND VOCATIONAL** – Public or private educational facilities providing post-secondary education that grants associates, bachelors, masters, and/or doctoral degrees or offers vocational training. Facilities may be on a larger-scale campus and include significant traffic and parking. May include gymnasium, theater, cafeteria, offices, classrooms, athletic facilities, and athletic fields. Does not include Stadium/Arena but may include a Stadium/Arena as an Accessory Use.

**SCHOOL, PRE-KINDERGARTEN TO HIGH SCHOOL** – Public or private education facilities with classrooms and offices, which may also include associated indoor and outdoor facilities such as ball courts, gymnasium, theater, food service, and athletic fields.

**SCIENCE AND TECHNOLOGY CENTER (STC)** – STCs are Sites at which a combination of innovative and experimental research, laboratory work, development, and educational projects are undertaken. No manufacturing is undertaken at STCs other than prototype development accessory to the STC use, and not including production for distribution or sale.

**SCREEN BUFFER OR VISUAL SCREEN** – A well-maintained Hedge, landscaped Berm, or other vegetative materials which upon planting or installation is both of sufficient Height and of sufficient Density to conceal from the view of adjacent properties the Structures and uses on the premise where the screening is located.

**SEASONAL RESIDENCE** – A dwelling, cabin, lodge or summer house which is intended for occupancy less than 182 days of the year.

**SELF-STORAGE FACILITY** – Any real property designed and used for the purpose of renting or leasing individual storage space to occupants who are to have access to such space for the purpose of storing and removing personal property. No occupant shall use a self-service storage facility for residential purposes.

**SELF-STORAGE FACILITY, INDOOR, CLIMATE-CONTROLLED** – An enclosed Building consisting of individual, self-contained rooms that are leased to individuals, organizations, or businesses for climate-controlled storage. Climate-controlled storage units are generally kept between 55 and 85 degrees Fahrenheit with a base humidity of 55% percent.

**SERVICE, GENERAL** – A Service Use with a Gross Floor Area of 3,000 square feet or greater as well as larger scale indoor and outdoor entertainment Uses. General Service includes such Uses as those listed in [Figure 200-2-12, Typical Service Uses](#).

**SERVICE, NEIGHBORHOOD** – A service Use with a Gross Floor Area of less than 3,000 square feet. Neighborhood Service includes such uses as those listed [Figure 200-2-12, Typical Service Uses](#).

*Figure 200-2-12, Typical Service Uses*

Typical Neighborhood Service Uses	Typical General Service Uses
<ul style="list-style-type: none"> <li>• Arcades and Billiards</li> <li>• Barber Shop, Beauty Salon, and Spas</li> <li>• Coffee Shop</li> <li>• Dry Cleaning (pick-up/outlet only)</li> <li>• Financial Depository Institutions/Banks, chartered and excluding Check Cashing Establishments</li> <li>• Fitness Club, Athletic Club, Dance Studio, Yoga Studio and Gym</li> <li>• Home Furniture and Equipment Repair</li> <li>• Laundromat</li> <li>• Locksmith</li> <li>• Mailing and Delivery Services</li> <li>• Pet Grooming</li> <li>• Phone Sales and Service</li> <li>• Photocopying and Printing</li> <li>• Photography Studio with Supplies</li> <li>• Post Office, limited distribution</li> <li>• Rental of any good permitted to be sold in the district</li> <li>• Repair and/or servicing of any good permitted to be sold in the district</li> <li>• Tailor or Seamstress</li> <li>• Tanning Salon</li> <li>• Therapeutic Massage establishment, licensed proprietor</li> <li>• Travel Agency, Ticketing, and Tour Operator</li> <li>• Veterinary Services/Animal Hospital (no outdoor Kennels)</li> </ul>	<ul style="list-style-type: none"> <li>• All Neighborhood Services over 3,000 square feet</li> <li>• Animal Boarding, Daycare, &amp; Training (interior only)</li> <li>• Motion Picture Theaters</li> <li>• Rental of any good permitted to be sold in the district</li> </ul>

**SETBACK** – The minimum required horizontal distance between a Setback Line and a property or Right-of-Way line.

**SETBACK LINE** – A line parallel to the front, side or rear Lot line so as to provide the required Yards.

- 1) **SETBACK, FRONT** – The minimum distance between the Right-of-Way line and the principal Building Setback Line projected the full width of the Lot.
- 2) **SETBACK, REAR** – The minimum distance between the rear Lot line and the rear Setback Line projected the full width of the Lot.
- 3) **SETBACK, SIDE** – The minimum distance between the side Lot line and the side Setback Line projected from the front Yard to the rear Yard.

**SHARED USE PATHWAY** – A transportation facility, serving non-motorized users, including pedestrians and cyclists, typically located within an Easement or Right-Of-Way for Public access and physically separated from Motor Vehicle traffic.

**SHORT-TERM RENTAL, ACCESSORY** – The Accessory Use of a Building, except a Hotel, Motel or Bed and Breakfast, where, for compensation, temporary lodging is provided for the transient guests and meals are not provided.

**SHORT-TERM RENTAL, PRINCIPAL** – The Principal Use of a Building where, for compensation, temporary lodging is provided for the transient guests and meals are not provided. Does not include Hotel, Motel, or Bed and Breakfast Uses.

**SIGN** – Any physical device for visual communication that is used for the purpose of attracting attention from the Public and that is visible from beyond an exterior Lot line, including all symbols, words, models, displays, Banners, flags, devices or representations. This shall not include displays that only involve symbols that are clearly and entirely religious in nature, and which do not include advertising.

**SIGN, ABANDONED** – Shall mean the following: 1) A Sign which has remained without true advertising for a period of six months, and for which the Sign Owner has not made application for a current permit as provided herein below, or which is without a current lease or license from the Landowner, or as to which the Sign Owner has ceased to attempt to lease the advertising space; or 2) A Sign which requires maintenance or Repair in excess of 25% of the replacement cost of the Sign as determined by the Zoning Officer after consultation with the Sign Owner if said Owner can be identified from the permit previously issued for such Sign.

**SIGN, A-FRAME** - A Sign consisting of two Sign Faces placed together at an angle to form an "A" shape Structure which tapers from a wide base to a narrow top

**SIGN, AREA** - The area of a Sign means the area of all lettering, wording, and accompanying designs, logos, and symbols. The area of a Sign does not include any supporting framework, bracing or trim which is incidental to the display and does not contain lettering, wording, or symbols.

**SIGN, AWNING** - A Sign that is mounted, painted, or attached to an awning.

**SIGN, CHANGEABLE** - A type of Sign that is designed so that its characters, letters, illustrations or other content can be changed, altered or rearranged without physically altering the permanent physical face or surface of the Sign.

**SIGN CLEARANCE** – The smallest vertical distance between Finished Grade and the lowest point of the Sign, including any framework or other structural elements. This applies to Awning, Marquee, Pole, Pylon, and Projecting Signs.

**SIGN COPY** – The message, advertisement, or other symbols on the Sign Face.

**SIGN, DIGITAL DISPLAY** – A Sign made of LCD, LED, plasma, CRT, pixelized lights, and other photo or videolike displays.

**SIGN FACE** – The area or display surface used for the message on a Sign.

**SIGN, FLAG** - A form of temporary Sign composed of durable lightweight fabric with a sturdy frame enclosing only a portion of the material's edge so that it can remain upright and still be flexible in the breeze, generally shaped to be tall and narrow when affixed into the ground or other bottom support, affixed to a pole which is located outdoors and contains language for advertisement, greeting or similar messaging purposes, which is activated by the wind and is used by businesses or organizations to promote events, products or services. Also known as a feather Sign or teardrop Sign.

**SIGN, FREESTANDING** - A Sign which is supported by Structures or supports in or on the ground and independent from a Building. Freestanding Signs include Monument Signs, Pole Signs, and Pylon Signs.

**SIGN, ILLUMINATED** – A Sign which has characters, letters, figures, designs, or outlines illuminated, either internally or externally, by electric lights or luminous tubes.

**SIGN, INFLATABLE** – A Sign that is an air-inflated object, which may be of various shapes, made of flexible fabric, resting on the ground or a Structure, and equipped with a portable blower motor that provides a constant flow of air into the device

**SIGN, MARQUEE** – A Sign that is mounted, painted, or attached to a marquee.

**SIGN, MONUMENT** – A low Sign independent from any Building that is in contact with or close to the ground and usually supported by posts or pillars on the sides or a structural base of at least 75% of the width of the Sign Face (Figure 1306.H). For example, a Monument Sign with a Sign Face 8 feet wide would require a structural base of 6 feet or more in width.

**SIGN, NONCONFORMING** – A Sign which was lawfully erected in compliance with the applicable regulations of the Zoning ordinance before the effective date of this Chapter and which fails to conform to the current standards or restrictions.

**SIGN, OFF-PREMISE** – A Sign that displays a message directing attention to a business, product, service, profession, commodity, activity, event, Person, institution, or other message that is generally conducted, sold, Manufactured, produced, offered, or occurs elsewhere than on the Premises where the Sign is located.

**SIGN, ON-PREMISE** – A Sign that the content relates to the Premises on which it is located.

**SIGN, POLE** – A Freestanding Sign permanently affixed to the ground by one support so that the bottom edge of the Sign Face is off the ground.

**SIGN, PROJECTING** – A Sign that is wholly or partly dependent on a Building for support and which projects more than 12 inches from the Building Elevation.

**SIGN, PYLON** – A Freestanding Sign permanently affixed to the ground by two supports so that the bottom edge of the Sign Face is off the ground.

**SIGN, ROOF** – A Sign mounted on the main Roof of a Building, and which is wholly dependent on the Building for support

**SIGN SPACING** – The distance between Signs or Sign Structures measured as a straight-line distance between the closest edges of each Sign.

**SIGN STRUCTURE** – The Structure, such as Buildings, towers, masts, poles, booms, decorations, carports, machinery, and equipment, to which a Sign is attached.

**SIGN, TEMPORARY** – A Sign constructed of cloth, canvas, vinyl, paper, plywood, fabric, plastic, or other lightweight material that is not permanently installed in the ground and not permanently affixed to a Building or a Structure that is permanently installed in the ground. The term Temporary Sign includes A-Frame Signs, lawn Signs, Banners, inflatable Signs, and Window Signs. The term Temporary Sign does not include Flags and Signs that are intended to regularly move, such as Vehicle Signs.

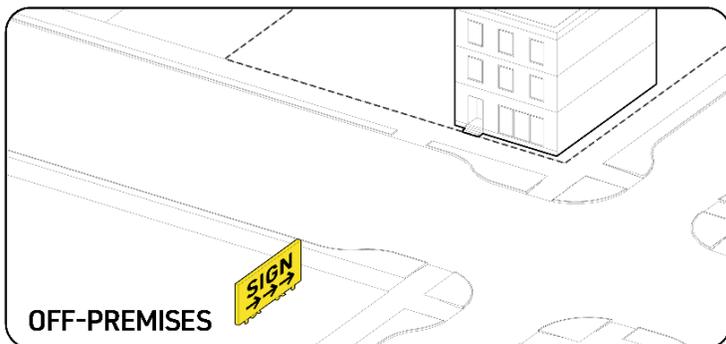
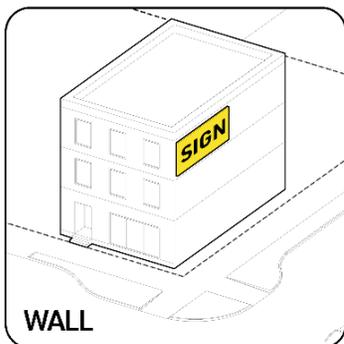
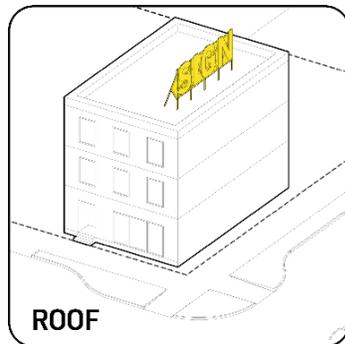
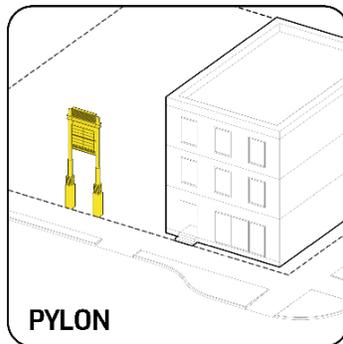
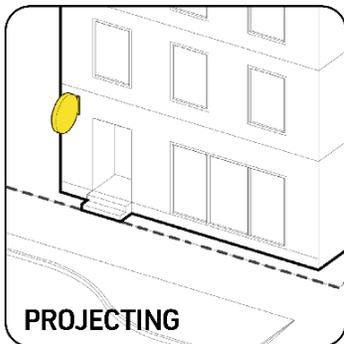
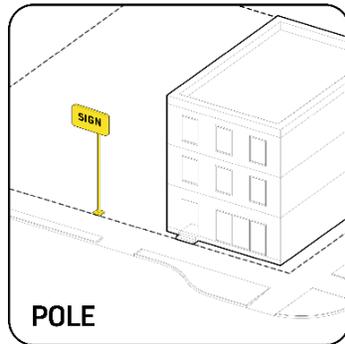
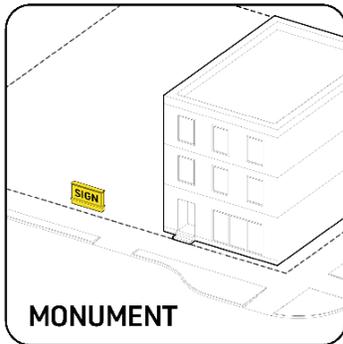
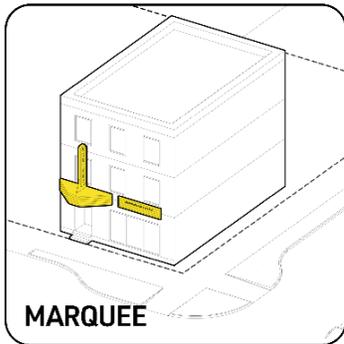
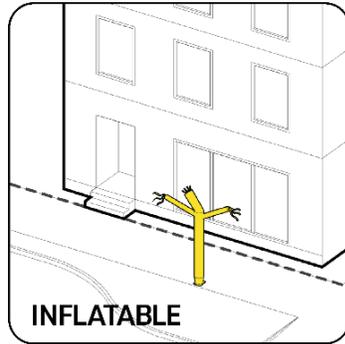
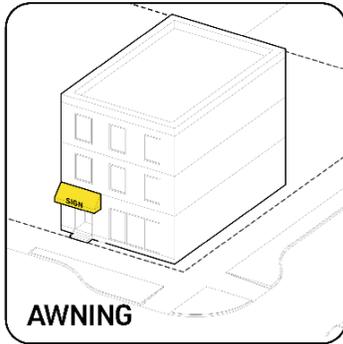
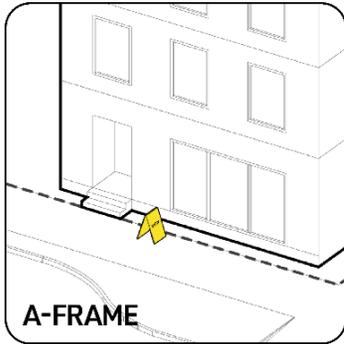
**SIGN, TRI-VISION BOARD** – A Sign composed of a series of three-sided rotating slats arranged side by side, either horizontally or vertically, that are rotated by an electromechanical process and display up to three separate and distinct messages, one message at a time.

**SIGN, VEHICLE** – A Sign mounted, posted, or otherwise adhered on or to a Motor Vehicle, including but not limited to cars, Trucks, Trailers, wagons, tractors, and Recreational Vehicles.

**SIGN, WALL** – A Sign fastened to or painted on the wall of a Building or Structure in such a manner that the wall becomes the supporting Structure for, or forms the background surface of, the Sign. This definition includes Signs located on a parapet wall of a Building and Signs composed of individual letters, numbers, or symbols.

**SIGNAGE PLAN** – A plan showing the location and size of all existing and proposed Signs for campus-like Uses on a Lot or group of Contiguous Lots of at least 10 acres.

Figure 200-2-13, Signs



**SINGLE AND SEPARATE OWNERSHIP** – The Ownership of a Lot by one or more Persons, which Ownership is separate and distinct from that of any Abutting or adjoining Lot. Ownership shall be considered separate and distinct where Lots have been separately described as such, by metes and bounds, in a recorded deed or conveyance prior to the enactment of this Ordinance, or an Amendment thereto, and have continued since that date to be so separately described in all subsequent recorded deeds of conveyance.

**SINKHOLE** – A closed, generally circular, depression in the land surface of variable depth and width, characterized by a distinct breaking of the ground surface, and formed by solution of Carbonate bedrock and downward movement of soil into bedrock voids or by collapse of underlying caves.

**SLOPE** – The change in elevation over the horizontal distance between consecutive contour lines. Slope shall be measured over three consecutive two-foot contour intervals (six cumulative vertical feet of Slope). All Slope measurements shall be determined by a topographic survey signed and sealed by a Professional Engineer or a Professional Land Surveyor.

**SLOPES, PRECAUTIONARY** — Those areas of land where the Grade is 15% or greater and less than 25%. Slopes shall be measured as the change in elevation over the horizontal distance between consecutive contour lines and expressed as a percent. For the purposes of all New Garden Township ordinances, Slope shall be measured over three or more two-foot contour intervals (six cumulative vertical feet of Slope).

**SLOPES, STEEP** — Those areas of land where the Grade is 25% or greater. Slopes shall be measured as the change in elevation over the horizontal distance between consecutive contour lines and expressed as a percent. For the purposes of all New Garden Township ordinances, Slope shall be measured over three or more two-foot contour intervals (six cumulative vertical feet of Slope).

**SMALL WIRELESS COMMUNICATIONS FACILITY** – A Wireless communications facility that meets the following criteria:

- 1) The Wireless Support Structure on which Antenna facilities are mounted—
  - a. Is fifty (50) feet or less in Height, or
  - b. is no more than ten (10) percent taller than other adjacent Structures, or
  - c. is not extended to a Height of more than fifty (50) feet or by more than ten (10) percent above its pre-existing Height as a result of the Collocation of new Antenna facilities; and
- 2) Each Antenna associated with the deployment (excluding the Accessory Equipment) is no more than three cubic feet in volume; and
- 3) All Accessory Equipment associated with the Wireless Support Structure (excluding Antennas) is cumulatively no more than 28 cubic feet in volume.
- 4) The Wireless communications facility does not require Antenna Structure registration under 47 CFR Section 17;
- 5) The Wireless communications facility is not located on Tribal lands, as defined under 36 CFR 800.16(x); and

- 6) The Wireless communications facility does not result in human exposure to radiofrequency radiation in excess of the applicable safety standards specified in 47 CFR 1.1307(b).

**SMALL WIRELESS FACILITIES DEPLOYMENT ACT** – Act of Jun. 30, 2021, P.L. 232, No. 50.

**SMOKING PLACES** – Establishments for which the sale of tobacco products for on-Site consumption yields at least 75% of gross revenues, including such Uses as hookah lounges.

**SOLAR ENERGY SYSTEM** – A complete design or assembly consisting of a solar energy collector, an energy storage facility (where used), and components for the distribution of transformed energy.

**SOLAR ENERGY SYSTEM (ASES), ACCESSORY** – A complete design or assembly consisting of a solar energy collector, an energy storage facility (where used), and components for the distribution of transformed energy.

**SOLAR ENERGY SYSTEM, PRINCIPAL (PSES)** – An area of land or other area used for a solar collection system principally used to capture solar energy, convert it to electrical energy or thermal power and supply electrical or thermal power primarily for off-Site use. A PSES is designed as the primary use on a Lot, wherein the power generated is used primarily for off-Site consumption. Principal Solar Energy Systems consist of one or more free-standing ground, or roof mounted solar collector devices, solar Related Equipment and other accessory Structures and Buildings including light reflectors, concentrators, and Heat exchangers, substations, electrical infrastructure, transmission lines and other appurtenant Structures.

**SOLID WASTE** – Any waste, including, but not limited to municipal or residual wastes, but specifically excluding hazardous wastes; including solid, liquid, semisolid, or contained gaseous materials.

**SOILD WASTE DISPOSAL FACILITY** – A facility using land for disposing or processing of municipal waste. The facility includes land affected during the lifetime of operations, including, but not limited to, areas where disposal or processing activities actually occur, support facilities, borrow areas, offices, equipment Sheds, air and water pollution control and treatment systems, access Roads, associated onsite or contiguous collection, transportation and storage facilities, closure and post closure care and maintenance activities and other activities in which the natural land surface has been disturbed as a result of or incidental to operation of the facility.

**SOUND** – Something audible: something that can be heard; vibrations sensed by ear: vibrations traveling through air, water, or some other medium, especially those within the range of frequencies that can be perceived by the human ear. The description of Sound may include any characteristic of such Sound, including duration, intensity and frequency.

**SPECIAL EXCEPTION USE** – A Use conditionally permitted in a particular Zoning District under this Ordinance that may be undertaken only following the approval by the Zoning Hearing Board and the

subsequent issuance of a Zoning Permit by the Zoning Officer pursuant to standards and criteria established in this Ordinance.

**SPECIAL FLOOD HAZARD AREA (SFHA)** – Means an area in the Floodplain subject to a one percent or greater chance of Flooding in any given year.

**SPECIFIED ANATOMICAL AREAS** – Means any of the following: 1) Less than completely and opaquely covered human genitals, pubic region, buttocks, anus, or female breasts below a point immediately above the top of the areola. 2) Human male genitals in a discernable turgid state, even if completely and opaquely covered.

**SPECIFIED SEXUAL ACTIVITIES** – Means any of the following: 1) The fondling or other erotic touching of human genitals, pubic region, buttocks, anus or female breasts. 2) Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation or sodomy. 3) Excretory functions as a part of or in connection with any of the activities set forth in 1) or 2) of this definition.

**STACK** – Any vertical Structure enclosing a flue or flues that carry off smoke or exhaust from a furnace, especially that part of a Structure extending above a Roof.

**STADIUM/ARENA** – A building or structure seating more than 1,000 spectators in tiered seating at sporting events, concerts, meetings, and gatherings of large groups. A Stadium/Arena may be open-air or covered by either a fixed or retractable roof.

**START OF CONSTRUCTION** – Includes Substantial Improvement and other proposed new Development and means the date the Permit was issued, provided the actual Start of Construction, Repair, reconstruction, rehabilitation, Addition, placement, or other improvement was within 180 days after the date of the permit and shall be completed within 12 months after the date of issuance of the permit unless a time extension is granted, in writing, by the Zoning Officer. The actual start means either the first placement of permanent Construction of a Structure on a Site, such as the pouring of slab or footings, the installation of piles, the Construction of columns, or any work beyond the stage of excavation; or the placement of a Manufacture home on a foundation. Permanent Construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of Streets and walkways; nor does it include excavation for a Basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of Accessory Buildings, such as Garages or sheds not occupied as Dwelling Units or not part of the main Structure. For a Substantial Improvement, the actual Start of Construction means the first Alteration of any wall, ceiling, floor, or other structural part of a Building, whether or not that Alteration affects the external dimensions of the Building.

**STEALTH TECHNOLOGY** – Camouflaging methods applied to Wireless communications towers, Antennas and other facilities which render them more visually appealing or blend the proposed facility into the existing Structure or visual backdrop in such a manner as to render it minimally visible to the casual

observer. Such methods include, but are not limited to, architecturally screened Roof-mounted Antennas, Building-mounted Antennas painted to match the existing Structure and facilities constructed to resemble trees, shrubs, flagpoles, farm silos, and light poles.

**STORAGE TANK, ABOVEGROUND** – A tank which contains hazardous or Petroleum Substances as regulated under the Storage Tank and Spill Prevention Act (STSPA), as amended, and which meets the following criteria: a stationary tank with 250 gallons or more of capacity with greater than 90% of its capacity above ground. Specific exceptions to this definition are included within the STSPA, and include, among others, on-premise heating fuel tanks, and farm or residential motor fuel tanks with a capacity of 1,100 gallons or less.

**STORAGE TANK, EXEMPTED** – Any tank or container which contains hazardous or Petroleum Substances, either above or underground, which is otherwise unregulated by the Storage Tank and Spill Prevention Act (STSPA), as amended. For the purpose of this Ordinance, exempted tanks are limited to the following: on premise heating fuel tanks, farm or residential motor fuel tanks with a capacity of 1,100 gallons or less, and tanks, drums or containers with a capacity of less than 110 gallons which contain hazardous substances.

**STORAGE TANK, UNDERGROUND** – A tank which contains hazardous or Petroleum Substances as regulated under the Storage Tank and Spill Prevention Act (STSPA), as amended, and which meets the following criteria: a tank with 110 gallons or more of capacity with 10% or greater of its capacity beneath the ground surface. Specific exceptions to this definition are included within the STSPA, and include, among others, on-premise heating fuel tanks, farm or residential motor fuel tanks with a capacity of 1,100 gallons or less.

**STORY** – The part of a Building between the surface of any floor and the next floor above it or in its absence, the finished Story if its floor level is six feet or more above the level of the line of the finished floor next below it. Any floor under a sloping Roof at the top of a Building, which is more than two feet below the top plate shall be counted as a Story; and, if less than two feet below the top plate, it shall be counted as a half-Story. A Basement shall be counted as a Story if it averages more than five feet above Grade.

**STREAM** – A Watercourse with definite bed and banks which confine and convey continuously or intermittently flowing water.

**STREET** – Any Street, avenue, boulevard, Road, highway, freeway, parkway, lane, viaduct, or any other way used or intended for use by vehicular traffic, bicyclists, or pedestrians, whether Public or private. The word "Street" includes the entire Right-of-Way and is not limited to the cartway area. Streets in New Garden Township include the following classification types:

- A. **EXPRESSWAY** – Designed for traffic between major regional areas. Directional travel lanes are usually separated by some type of physical barrier, and their access and egress points are limited to on- and off-ramp locations or a very limited number of at-grade intersections.
- B. **ARTERIALS** - Roadways that provide land access while retaining a high degree of thru traffic mobility and serve major centers of urban activity and traffic generation. They provide a high speed, high volume network for travel between major destinations in both rural and urban areas.
- C. **COLLECTORS** - Collector Roadways serve dual functions—collecting traffic between Local Roadways and Arterial Streets and providing access to Abutting properties. They serve minor traffic generators, such as local elementary schools, small individual Industrial plant, office, Commercial facilities, and warehouses not served by Arterials.
- D. **LOCAL** - Roadways that are local in character and serve farms, residences, businesses, neighborhoods, and Abutting properties.
- E. **MARGINAL ACCESS STREETS** – Local streets, parallel and adjacent to major traffic streets, providing access to abutting properties and control of intersections with the major traffic street.
- F. **PRIVATE STREETS** - Private streets are those not offered for dedication or duly accepted by the Board of Supervisors as a public street.

Classification	Street/Route
Expressway	U.S. Route 1
Arterials	Route 41 (Gap Newport Pike)
	Route 3013 (Limestone Road between Route 41 and Delaware State Line)
	Route 3046 (Baltimore Pike)
	Route 3046 (Cypress Street)
Collectors	Route 3013 (Limestone Road between Route 41 and Kaolin Road)
	Route 3013 (Kaolin Road between Limestone Road and Kennett Township)
	Route 3033 (Newark Road between Delaware State Line and Route 1)
	Route 3033 (Newark Road between Route 1 and West Marlborough Township)
	Hillendale Road (between Newark Road and Kennett Township)
	Route 3024 (Broad Run Road between Newark Road and London Britian Township)
	Route 3009 (Penn Green Road between Baltimore Pike and London Britain Township)
	Mill Road Starr Road Line Road
Local	All other streets not listed above.

**STREET CENTERLINE** – A baseline used for the layout of Lots and the Construction of a cartway generally midway between the Street Lines.

**STREET FRONTAGE** – See FRONTAGE, STREET.

**STREET LINE (RIGHT-OF-WAY LINE)** – A line defining the edge of a Street Right-of-Way and separating the Street from Abutting property or Lots.

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

**STRUCTURE, ACCESSORY** – A Structure associated with an accessory Use, (e.g., Swimming Pools, patios, Antennas, tennis courts, Garages, Utility shed, etc.).

**STRUCTURE, PRINCIPAL** – A Structure associated with a primary Use. Structures shall not include such things as temporary fences, sandboxes, decorative fountains, swing sets, doghouses, birdhouse, bird feeders, mailboxes, and any other similar non-permanent improvements.

**SUBDIVISION** – The division or redivision of a Lot, Tract or parcel of land by any means into two or more Lots, Tracts, parcels or other divisions of land including changes in existing Lot lines for the purpose, whether immediate or future, of lease, partition of the court for distribution to heirs or devisees, transfer of Ownership or Building or Lot Development; provided, however, that the Subdivision by lease of land for agricultural purposes into parcels of more than 10 acres, not involving any new Street or Easement of access, or any residential dwelling, shall be exempted.

**SUBDIVISION AND LAND DEVELOPMENT ORDINANCE** – The New Garden Township Subdivision and Land Development Ordinance of July 1999, as amended.

**SUBSTANTIAL CHANGE OF WIRELESS COMMUNICATIONS FACILITY (SUBSTANTIAL CHANGE OF WCF)** – A modification substantially changes the physical dimensions of any support Structure if it meets the criteria established by 47 CFR §1.6100.

**SUBSTANTIAL IMPROVEMENT** – Any Repair, reconstruction, or improvement of a Structure, the cost of which equals or exceeds 50% of the fair market value of the Structure either (a) before the improvement or Repair is started or (b) if the Structure has been damaged, and is being restored, before the damage occurred. For the purpose of this definition, “Substantial Improvement” is considered to occur when the first Alteration of any wall, ceiling, floor, or other structural part of the Structure commences, whether or not that Alteration affects the external dimensions of the Structure.

**SWIMMING POOL** – A temporary or permanent Structure, not enclosed within a Building, containing or having the potential to contain a body of water with a minimum depth of two feet. Definition is inclusive of both in-ground and above-ground Swimming Pools.

*Words and Terms That Start with T*

**TATTOO/PIERCING PARLOR** – Establishments primarily in the business of applying lettering, art, and other images with permanent and semi-permanent inks, paints, pigments, or piercings to the body of patrons.

**TEMPORARY CONSTRUCTION SITE TRAILER** – A Manufactured Home or Industrialized housing type Structure used only for office facilities or for storage of Construction-Related Equipment or materials.

**TEMPORARY OUTDOOR EVENT** – A Temporary Outdoor Event such as a carnival, circus, Street celebration, race, bazaar, market, procession, assemblage, temporary sales tents (e.g., fireworks, flowers, etc.) or other similar outdoor event. Such events may be on a Street, Open Space, or other Public space in which Public access is wholly or partially restricted. The event may include the sale of goods.

**TEMPORARY PORTABLE STORAGE UNIT (commonly known as PORTABLE ON DEMAND STORAGE or PODS®)** – Any mobile container, storage unit, shed-like container or other portable Structure that is not permanently affixed to the land, is designed for temporary short-term storage, is not intended for human habitation, that can be or is used for the storage of personal property of any kind and which is located for such purposes outside an enclosed Building, other than an Accessory Building or shed complying with all Building codes and land Use requirements.

**TEMPORARY SHELTER FACILITY** – Temporary, Emergency housing, and social, health, and related services for families and/or individuals 18 years of age or older, who are without resources and access to shelter.

**TESTING** – A function involving the examination and assessment of qualities, performances, capabilities, or any combination thereof, of a product, good or material.

**TOWER-BASED WIRELESS COMMUNICATIONS FACILITY (TOWER-BASED WCF)** – Any Structure that is used for the primary purpose of supporting one or more Antennae, including, but not limited to, self-supporting lattice towers, guy towers, and Monopoles, and the accompanying Antenna and Accessory Equipment.

**TOWER SITE** — For towers other than towers in the Public Rights-Of-Way, the current boundaries of the leased or owned property surrounding the tower and any access or Utility Easements currently related to the Site and, for other Eligible Support Structures, further restricted to that area in proximity to the Structure and to other Transmission Equipment already deployed on the ground.

**TOWNSHIP** – New Garden Township, Chester County, Pennsylvania.

**TRACT** — An area, Lot, parcel, Site, or property (or a combination thereof) that is held by one Owner or Owners in common.

**TRACT AREA, ADJUSTED OR ADJUSTED TRACT AREA** – The gross Tract Area minus the Constrained Land.

**TRACT AREA, GROSS** – The total amount of land contained within the limits of the legally described property lines bounding the tract.

**TRACT AREA, NET** — The area of a tract remaining after the Constrained Lands have been subtracted from the Gross Tract Area. In all Zoning districts, when used for establishing the minimum Lot area, maximum Density, maximum Impervious Cover or minimum Tract Area in any computation of the percentage of Lot area, the term "Lot area" or "Lot size" shall be deemed to mean "net Lot area" or "Net Tract Area."

**TRAILER** – A Vehicle without motor power designed for carrying Persons or property and for being drawn by a Motor Vehicle and constructed so that no part of its weight rests upon the towing Vehicle.

**TRANSIT BUS STOP, ON-SITE** – A Use including both sheltered and non-sheltered infrastructure facilities that provide passengers safe access to both fixed-route and demand-responsive Public transportation services on a Lot. Bus stops provided in the Right-Of-Way are not subject to these regulations.

**TRANSMISSION EQUIPMENT** — Equipment that facilitates transmission for any Federal Communications Commission-licensed or -authorized Wireless communications services, including, but not limited to, radio transceivers, Antennas, coaxial or fiber-optic cable, and regular and backup power supply. The term includes equipment associated with Wireless communications services, including, but not limited to, private, broadcast and Public safety services, as well as unlicensed Wireless services and fixed Wireless services such as microwave backhaul

**TRANSPORTATION AND UTILITIES** – A Use that is primarily utilized for the Public infrastructure needs and services. Transportation and Utilities include such Uses as Street Rights-of-way, rail Rights-of-way, Public transportation services, electric or gas services, sewage treatment, water treatment and storage, pumping stations, transmission and receiving stations, and energy conversion systems.

- 1) **TRANSIT FACILITIES** – Uses that include Public transportation operations, maintenance and storage facilities.
- 2) **TRANSIT BUS STOPS** – Uses include both sheltered and non-sheltered infrastructure facilities that provide passengers safe access to both fixed-route and demand responsive Public transportation services.

**TREATMENT FACILITY.** An establishment that administers or dispenses controlled substances, according to the direction of a physician in a rehabilitative context in order to alleviate, suppress or eliminate adverse psychological or physiological symptoms of medical conditions or the continuous or sustained use of a narcotic drug. Includes dispensaries that hold a permit issued by the Pennsylvania Department of Health to dispense Medical Marijuana as well as clinics, institutions and other entities designed and operated to manage opioid addiction, to administer opioid addiction treatment programs and to provide detox treatment to individuals attempting to overcome an addiction to or dependence on heroin or other opioids.

**TRUCK** – A Motor Vehicle or a combination of Vehicles having a gross Vehicle weight rating or gross combination weight rating in excess of 26,000 pounds primarily designed to carry cargo, freight, goods or material. For purposes of this definition, the gross Vehicle weight rating shall be the value specified on the Federal weight certification label by the Manufacturer as the loaded weight of a single Vehicle and the gross combination weight rating shall be the value specified by the Manufacturer as the load weight of a combination.

**TRUCKING TERMINAL** – A Building or group of Buildings on the same Lot used for the purpose of loading or unloading materials or goods from Trucks, for the primary purpose of transferring materials and goods, either for distribution or changing from one transportation carrier to another. This use may also involve parking, storage, and incidental Repairs and maintenance of primarily tractor-Trailers. A Truck Terminal may include as accessory uses if they are closely related to the principal use: Repair, washing, refueling, and maintenance facilities for Trucks using the terminal, administrative uses for the terminal.

**TURBINE HEIGHT** — The distance measured from the surface of the tower foundation or Roof mounting to the highest point of the turbine rotor blade.

*Words and Terms That Start with U*

**ULTIMATE RIGHT-OF-WAY** — The future plan width of a Street, Road, Alley, crosswalk or similar place as shown on the Official Map of the Township on file with the Township, or as required by **Chapter 170, Subdivision and Land Development Ordinance** or other Township ordinance, whichever is greater.

**UNIFORM CONSTRUCTION CODE (UCC)** – The statewide Building code adopted by The Pennsylvania General Assembly in 1999 applicable to New Construction in all municipalities whether administered by the municipality, a third party or the Department of Labor and Industry. Applicable to residential and Commercial Buildings, The Code adopted The International Residential Code (IRC) and the International Building Code (IBC), by reference, as the Construction standard applicable with the State Floodplain Construction. For coordination purposes, references to the above are made specifically to various sections of the IRC and the IBC.

**UNREASONABLE NOISE** — Sound that is of a volume, frequency, or pattern that prevents, disrupts, injures, or endangers the health, safety, welfare, comfort or repose of reasonable persons of ordinary sensitivities within New Garden Township, given the time of day, day of week, location, and/or other relevant factors in which and where the Sound is made.

**UNREGISTERED VEHICLE** - Any Motor Vehicle or Trailer that does not display a license plate with a current registration sticker and does not have a valid state safety inspection sticker. This term shall not apply to Vehicles (such as licensed antique cars) for which state regulations do not require an inspection sticker. The term also shall not include Motor Vehicles displaying a license and inspection stickers that have each expired less than 90 days previously.

**USE** – The specific purpose for which land or a Building is designed, arranged, intended, or for which it is or may be occupied or maintained. The term "Permitted Use" or its equivalent shall not be deemed to include any Non-Conforming Use.

**USE, ACCESSORY** — A Use that: is subordinate in area, extent, intensity and purpose to the principal permitted Use; is incidental to the principal permitted Use; is compatible with, and customary to, the permitted principal Use; and is located on the same Lot as the permitted principal Use.

**USE, PERMITTED** – Means any Use allowed by right within a Zoning District, subject to the restrictions applicable to that Zoning District, and that is not a Special Exception Use.

**USE, PRINCIPAL** – The dominant purpose for which a Lot or Building is utilized.

**USE, TEMPORARY** – Any Use authorized under and in accordance with the provision of this Ordinance which is limited to the time in which such Use may legally continue.

**UTILITY** — Any agency that under Public franchise or Ownership or under certificate of convenience and necessity or by grant of authority by a governmental agency directly provides the Public with electricity, gas, Heat, steam, communication, transportation, water, sewage collection or other similar service.

*Words and Terms That Start with V*

**VARIANCE** – Relief granted by the Zoning Hearing Board in accordance with the provisions of this ordinance and the MPC.

**VEHICLE** – Every device in, upon or by which any Person or property is or may be transported or drawn upon a highway, except devices used exclusively upon rails or tracks. The term does not include a self-propelled wheelchair, or an electrical mobility device operated by and designed for the exclusive Use of a Person with a mobility-related Disability.

**VOLUNTARILY** – Means any act(s) done by design or intention, which is proposed, intended, or not accidental. An Act of God is not considered voluntary, but rather is regarded as an act done without the will or choice of the Applicant (or Owner, if different from Applicant). For the purposes of this Ordinance, the destruction of a significant Building or Structure for failure to properly secure it shall be considered voluntary.

*Words and Terms That Start with W*

**WALL MOUNTED (ELECTRIC VEHICLE CHARGING STATION)** – An Electric Vehicle Charging Station that is mounted to a wall or any similarly substantial vertical surface.

**WAREHOUSE/LOGISTICS USE** – A Building or group of Buildings on the same Lot used for the indoor storage of goods, products and materials and/or receipt of bulk products and separation and distribution

of those products to another Warehouse/Logistics Use or to individual end-user consumers. A Warehouse/Logistics Use may include value-added services between a supplier and its customers such as breaking down of large orders from a single source into smaller orders (break-bulk functions), product mixing, sorting, packaging, cross-docking, order fulfillment, order returns, the consolidation of several orders into one large order for distribution to several recipients and/or vice versa but shall not include Retail or Manufacturing uses.

- 1) Warehouse/Logistics Uses shall be classified as:
  - a) **SMALL WAREHOUSE/LOGISTICS USE:** A Warehouse/Logistics Use that does not exceed 25,000 square feet of Gross Floor Area per Lot.
  - b) **LARGE WAREHOUSE/LOGISTICS USE:** A Warehouse/Logistics Use that exceeds 25,000 square feet of Gross Floor Area per Lot.
- 2) A Warehouse/Logistics Use that incorporates ten or more tractor Trailer loading/unloading docks or would generate more than fifty tractor-Trailer trips or 100 non-tractor Trailer Truck trips in any 24-hour period based on the latest edition of the Institute of Transportation Engineers' Trip Generation Handbook shall be required to satisfy the requirements for a Truck Terminal Use in addition to the applicable Warehouse/Logistics Use requirements. A "trip" shall be defined as one arrival at or one departure from the property on which the use is located.

**WATERCOURSE** – A channel or conveyance of surface water, such as a Stream creek, or run, having a defined bed and banks, whether natural or artificial, with perennial or intermittent flow. For the purposes of the Ordinance, a Watercourse shall not include manmade swales constructed expressly for the purpose of stormwater management.

**WATERCOURSE, EPHEMERAL** – A Stream or portion of a Stream that flows only in direct response to precipitation. It receives little or no water from springs and no long-continued supply from melting snow or other sources. Its channel is at all times above the water table. The term may be arbitrarily restricted to Streams which do not flow continuously during periods of the month.

**WATERCOURSE, INTERMITTENT** – A defined channel in which surface water is absent during a portion of the year, as ground water levels drop below the channel bottom.

**WATERCOURSE, PERENNIAL** - A defined channel containing surface water throughout the year.

**WBCA** — Pennsylvania Wireless Broadband Collocation Act (53 P.S. § 11702.1 et seq.).

**WETLANDS** – Areas that are inundated and saturated by surface or Groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, including swamps, marshes, bogs, and similar areas. Any area meeting the official wetland definition of the U.S. Army Corps of Engineers or the Pennsylvania Department of Environmental Protection, as amended, shall be considered a wetland for the purposes of this Ordinance. In the event the definition of wetland accepted by the U.S. Army Corps of

Engineers conflicts with the definition of a wetland accepted by the (state) Department of Environmental Protection, the more restrictive definition shall apply.

**WETLAND MARGIN** — The transitional area extending from the outer limits of a Wetlands for a distance of 75 feet or to the limits of hydric soils, whichever is greater. Regardless of the presence of hydric soils, the wetland margin shall always extend at least a minimum width of 25 feet from the edge of the wetland boundary.

**WIND ENERGY SYSTEM, ACCESSORY** – An area of land or other area used for a collection system used to capture wind energy, convert it to electric energy, and supply electric power primarily for on-Site use. An AWSES consists of one or more free-standing ground mounted Wind Turbines or wind energy-Related Equipment and is intended to primarily reduce on-Site consumption of Utility power or fuels.

**WIND ENERGY SYSTEM, PRINCIPAL** – A principal use on a parcel that converts and then stores or transfers energy from the wind into usable forms of energy on a large, Industrial scale for Commercial, or Utility purposes.

**WIND TURBINE** — A wind energy system that converts wind energy into electricity through the Use of a Wind Turbine generator, and includes the nacelle, rotor, tower and pad transformer, if any.

**WINDOW** – An opening to the outside other than a door which provides all or part of the required natural light, natural ventilation or both to an interior space. The glazed portion of a door in an exterior wall may be construed to be a Window in regard to provision of natural light.

**WIRELESS** — Transmissions through the airwaves, including, but not limited to, infrared line of sight, cellular, PC, microwave, satellite, or radio signals.

**WIRELESS COMMUNICATIONS FACILITY (WCF)** – An Antenna facility or a Wireless Support Structure that is used for the provision of Wireless service, whether such service is provided on a stand-alone basis or commingled with other Wireless communications services.

**WIRELESS COMMUNICATIONS FACILITY APPLICANT (WCF APPLICANT)** – Any Person that applies for a Wireless communication facility Building permit, Zoning approval, and/or permission to Use the Public Right-of-Way (ROW) or other Township-owned land or property.

**WIRELESS SUPPORT STRUCTURE** – A pole, tower, Base Station, or other Building, whether or not it has an existing Antenna facility that is used or is to be used for the provision of Wireless service (whether on its own or commingled with other types of services).

**WOODLANDS** – A tree mass or plant community in which tree species are dominant or co-dominant and the branches of the trees form a complete, or nearly complete, aerial canopy. Any area, grove, or stand of

mature or largely mature trees [larger than 12 inches DBH] covering an area of one-quarter acre or more or consisting of 10 individual trees larger than six inches DBH, shall be considered a woodland. The extent of any woodland plant community or any part thereof shall be measured from the outer-most drip line of all the trees in the plant community.

**WOODLAND DISTURBANCE** – Any activity that 1) Alters the existing Structure of a woodland or hedgerow, including the cutting or removal of canopy trees, sub-canopy trees, understory shrubs and vines, and herbaceous woodland floor species; or 2) Constitutes a Land Disturbance (i.e., exposes soils or alters topography) within a woodland or hedgerow. Woodlands Disturbance does not include the selective cutting or removal of Invasive Plant Species or timber harvesting when conducted in accordance with a timber harvest plan.

*Words and Terms That Start with X*

Section reserved for future use.

*Words and Terms That Start with Y*

**YARD** – An area between the permitted Structures and the property lines. See **Figure 200-2-12, Yards**.

**YARD, BUFFER** – A strip of required Yard space adjacent to the boundary of a property or district, not less than the width designated in this Ordinance, and on which is placed (planted) year-round shrubbery, Hedges, evergreens or other suitable plantings of sufficient Height and Density to constitute an effective screen and give maximum protection and immediate screening to an Abutting property or district, and may include a wall, as provided for in this Ordinance.

**YARD, EXTERIOR** – An open, unoccupied space between a Building and the property boundary or Street Line.

**YARD, FRONT** – An open unoccupied space on the same Lot with a Building, extending the full width of the Lot and situated between the Street Line and the Building line projected to the side lines of the Lot. The depth of the front Yard shall be measured between the front Building line and the Street Line.

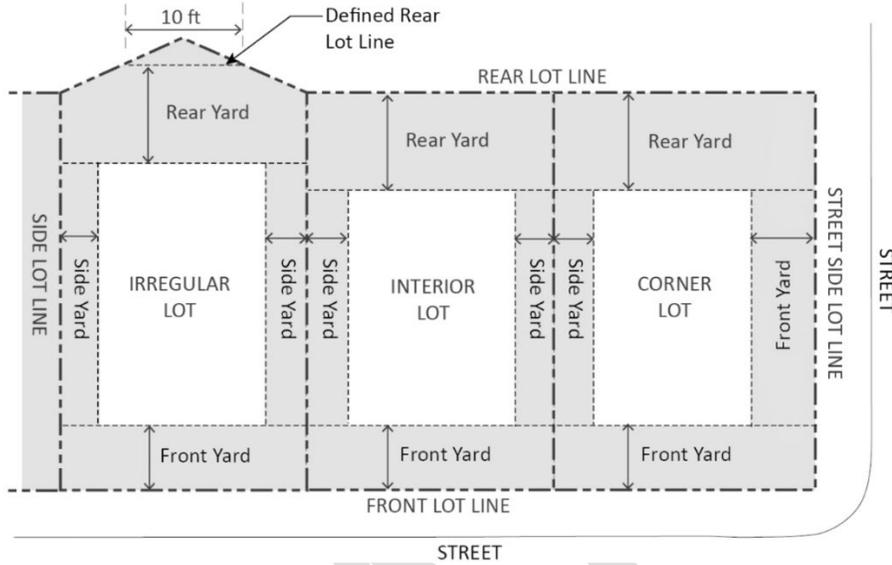
**YARD, INTERIOR** – An open, unoccupied space between Building Structures, all of which are located on the same Lot.

**YARD, REAR** – The area contained between the principal Structure and the property line directly opposite the Street of address. For flag Lots, the rear Yard shall be that area between the principal Structure and that Lot line which is directly opposite the above described front Yard.

**YARD, SIDE** – The area (s) between a principal Structure and any side Lot line(s). On corner Lots, the side Yard shall be considered those areas between the principal Structure and the property lines directly opposite the non-address Street(s). For flag Lots, the side Yards shall be the area between the principal

Structure and that one outermost Lot line which forms the flag and pole, plus the area on the opposite side of the principal Structure.

*Figure 200-2-14, Yards*



*Words and Terms That Start with Z*

**ZONING** – The designation of specified districts within the Township, reserving them for certain Uses together with limitations on Lot size, Heights of Structures and other stipulated requirements.

**ZONING OFFICER** – The duly constituted municipal official designated to administer and enforce this Ordinance in accordance with its literal terms.

## Article III – Districts

### §200-301 Establishment of Zoning Districts

New Garden Township is hereby divided into Districts which shall be grouped and designated as follows.:

A. Conservation Districts.

- 1) PO Parks and Open Space

B. Residential Districts.

- 1) RL Residential Low-Density
- 2) RM Residential Medium-Density
- 3) RF Residential Flex

C. Mixed-Use Districts.

- 1) VC Village Center
- 2) VG Village Gateway
- 3) LL Limestone Light Industrial
- 4) MU Mixed-Use Corridor
- 5) IO Innovation

D. Industrial Districts.

- 1) EP Enterprise
- 2) AP Airport

E. Overlay District. The overlay zone works to supplement the Development restrictions of the base Zoning districts while imposing a distinct set of Use and Development restrictions on lands overlaying some portion or all of the base district. The following overlay was created and is subject to the regulations contained in its respective section. The overlay zone is bound to its specific overlay district regulations as well as the standards of the base Zoning district.

- 1) APO Airport Hazard Overlay

F. Said districts shall be governed by regulations contained herein and together with all future notations, references, and Amendments, shall be declared part of this Chapter.

### §200-302 Zoning Map

A. Zoning District boundaries shall be determined by the “Official New Garden Township Zoning Map” as adopted with this Chapter, and as amended. Determination of precise district boundaries shall be made in accordance with [§200-303, District Boundary Lines](#).

B. The Zoning districts established under [§200-303, District Boundary Lines](#), are shown on the Township’s official Zoning Map, which is adopted, and incorporated herein in its entirety, as part of this Chapter.

- 1) Promptly following enactment of this Chapter, the Township shall place the following legend on the official Zoning Map adopted as part of this Chapter, the Board Chairman shall execute the same on behalf of Township Board of Supervisors, and the Township Secretary shall attest to the same: "On **<DATE>**, by official action of the New Garden Township Board of Supervisors, this map was adopted as the official Zoning Map of the Township by enactment of Chapter 200 Zoning Ordinance of the New Garden Township Municipal Code."
- 2) No changes of any nature shall be made in the official Zoning Map except in conformity with the procedures set forth in this Chapter. Any unauthorized change of whatever kind by any Person or Persons shall be considered a violation of this Chapter.
- 3) A certified Zoning Map shall be filed with the Township Secretary, Township Planning Commission, and the Chester County Planning Commission.

### §200-303 District Boundary Lines

District boundary lines are, unless expressed otherwise, indicated by:

- A. The center line of Street, Alleys, or railroads, corporate limits, Lot lines, and beds of Streams, existing at the time of passage of this Chapter.
- B. Where figures are drawn on the Zoning map between Streets and a boundary line, said figures shall indicate a boundary line parallel to the Street at the number of feet indicated.
- C. Where a district boundary line approximates the path of a Lot or property line, the Lot or property line shall be construed as the boundary.
- D. Where a Lot, parcel or Tract is divided by a district line the Use regulations of the less restrictive district shall apply and extend over the portions of the Lot, Tract or parcel that are in the more restrictive district.

### §200-304 General District Regulations

- A. Where uncertainty exists as to the boundaries of Zoning districts as shown on the official Zoning Map, the following rules shall apply:
  - 1) Boundaries indicated as approximately following the Centerlines of Streets, Roadways, highways, or Alleys shall be construed to follow such Centerlines;
  - 2) Boundaries indicated as approximately following property lines or platted Lot lines, shall be construed as following such lines;
  - 3) Boundaries indicated as approximately following Township limits shall be construed as following Township limits;
  - 4) Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks; and
  - 5) Boundaries that are in un-subdivided property or where a Zoning district boundary divides a Lot shall be determined using the map scale as shown thereon.

- B. Encroachments. Porches and Balconies, covered or uncovered, may extend six feet into the front or rear building Setback, provided that they are not fully enclosed and no closer than two feet to the front or rear property lines.
- C. Front Yard Averaging. When the Clearly Prevailing Yard Pattern for Front Yards is less than the minimum Front Yard Setback required in a District, then the Front Yard Setback for the subject Lot may be reduced by exception to no less than the Clearly Prevailing Yard Pattern for Front Yards, provided that in no case shall a Front Yard Setback be less than 50% of the minimum Front Yard Setback for the District.

#### §200-305 Availability of Public Utilities

- A. Any Use in any Zoning district which requires Public Sewer and/or Public Water to serve a permitted Use, a developer/Landowner must demonstrate the availability of Public Sewer and Public Water to serve such Use; provided, however, if the Township or the administrator of the Public Sewer system determines that Public Sewer is not available or will not be available to serve the Use within 18 months of the date of approval of the Use and all plans and other documents required to be approved in conjunction with such Use, the Use must then be served by an alternative sewer system, subject to and in compliance with all applicable federal, state, county and Township laws, regulations, specifications and requirements.
  - 1) In all instances, the proposed method of sewage collection, conveyance, treatment, and reclamation must be consistent with the sewage facilities plan (537 plan) of the Township applicable to the area within which the Use is to be located.
    - a) The sewage facilities must be situated on the subject property, must be owned by the Landowner or a homeowners' association, and maintained by a licensed and qualified sewage contractor duly approved by Chester County, Pennsylvania Department of Environmental Protection, and any other applicable regulatory agency.
      - (i) The Applicant/Landowner must make a continuing offer of dedication to the Township and/or the owner of the Public Sewer system of such sewage facilities; however, the Township shall have no obligation to accept dedication of such sewage facilities but may do so in its sole discretion.
      - (ii) Unless sewage disposal is entirely subsurface (e.g., drip irrigation shall be deemed subsurface, but spray irrigation shall not be deemed subsurface), no sewage facilities, systems, treatment, or disposal may be placed in any required Open Space area.
  - 2) A Public Water system and/or sewer system shall be considered available to Use if such system is located within 500 feet of any boundary line of the Tract on which the Use is to be located.

§200-306 PO- Parks and Open Space

- A. *Intent.* The Parks and Open Space (PO) district is established to preserve and enhance natural landscapes, recreational areas, and green spaces for the enjoyment and well-being of the Township and its residents. This is accomplished by:
- 1) Protecting Environmentally Sensitive Areas.
  - 2) Providing opportunities for outdoor recreation.
  - 3) Promoting ecological sustainability.

B. *Dimensional Requirements.*

*Figure 200-3-1, Dimensional Requirements in the PO Zoning District*

Dimension	Requirement
Minimum Lot Size	1 acre
Minimum Lot Width	50 feet
Minimum Principal Structure Setbacks	
Front	20 feet
Side	10 feet
Rear	20 feet
Minimum Accessory Structure Setbacks <sup>1</sup>	
Front	20 feet
Side	10 feet
Rear	15 feet
Maximum Building Height	35 feet
Maximum Impervious Lot Coverage	10%

- C. *Use Regulations.* See [Figure 200-4-1, Table of Permissible Uses](#).

<sup>1</sup> All dimensional standards of Accessory Structures must comply with the [§ 200-413-A, General Provisions](#).

§200-307 RL – Residential Low-Density

A. *Intent.* The Residential Low-Density (RL) district is designed to provide a balanced environment that blends residential living with Open Space. This is accomplished by:

- 1) Encouraging spacious living through a Development pattern consisting of larger lots and dedicated Open Space.
- 2) Enhancing quality of life by providing residents with access to green spaces, parks, and recreational facilities to support a healthy lifestyle.
- 3) Preserving sensitive natural features through a thoughtful and careful approach to new Development and surrounding Uses.

B. *Dimensional Requirements.*

Figure 200-3-2, Dimensional Requirements in the RL Zoning District

Dimension	Requirement
Minimum Lot Size	1 acre
Minimum Lot Width	100 feet
Minimum Lot Width on a Cul-De-Sac	50 feet at Right-Of-Way 100 feet at front Setback
Minimum Principal Structure Setbacks	
Front	50 feet
Side	15 feet
Rear	40 feet
Minimum Accessory Structure Setbacks <sup>1</sup>	
Front	50 feet
Side	10 feet
Rear	10 feet
Maximum Building Height	35 feet
Maximum Impervious Lot Coverage	40%

C. *Use Regulations.* See [Figure 200-4-1, Table of Permissible Uses](#).

<sup>1</sup> All dimensional standards of Accessory Structures must comply with the [§ 200-413-A, General Provisions](#).

§200-308 RM – Residential Medium-Density

A. *Intent.* The Residential Medium-Density (RM) district is designed to accommodate for a variety of residential neighborhoods that include a mixture of housing types in size and scale. This is accomplished by:

- 1) Encouraging the Development of a variety of housing types, including Single-Unit Dwellings, Two-Unit Dwellings, and Townhouses to accommodate different household sizes and income levels.
- 2) Fostering a well-connected community with pedestrian-friendly Streets within proximity to community services and businesses.

B. *Dimensional Requirements.*

*Figure 200-3-3, Dimensional Requirements in the RM Zoning District*

Dimension	Requirement
Maximum Development Density	5 Dwelling Units per Acre
Minimum Lot Size by Use	
Dwelling; Single-Unit Detached	4,000 square feet
Dwelling; Single-Unit Semi-Attached	2,000 square feet
Dwelling; Townhouse	1,000 square feet
Dwelling; Two-Unit	4,000 square feet
Nonresidential use	10,000 square feet
Minimum Lot Width	
Dwelling; Single-Unit Detached	50 feet
Dwelling; Single-Unit Semi-Attached	30 feet
Dwelling; Townhouse	20 feet
Dwelling; Two-Unit	25 feet
Minimum Principal Structure Setbacks	
Front	15 feet
Side	10 feet
Rear	25 feet
Minimum Accessory Structure Setbacks <sup>1</sup>	
Front	15 feet
Side	10 feet
Rear	10 feet
Maximum Building Height	40 feet
Maximum Impervious Lot Coverage	
Dwelling; Single-Unit Detached	50%
Dwelling; Single-Unit Semi-Attached	60%
Dwelling; Townhouse	80%
Dwelling; Two-Unit	80%

<sup>1</sup> All dimensional standards of Accessory Structures must comply with the [§ 200-413-A, General Provisions](#).

C. Use Regulations. See [Figure 200-4-1, Table of Permissible Uses.](#)

§200-309 RF – Residential Flex

A. Intent. The Residential Flex (RF) district is intended to achieve a balance between residential growth that allows for a diversity of Lot sizes and Density allowances to meet market demands, allow for flexibility in design and permitted Uses, and ensure that the availability of Public utilities is accounted for. This is accomplished by.

- 1) Allowing for flexible Lot sizes for residential Uses to give developers and builders the freedom to respond to market demands.
- 2) Providing for a variety of residential and non-residential Uses that can work together to give existing and new residents valuable neighborhood services.
- 3) Focusing Development on areas of the Township that already have the necessary Public utilities to support additional growth.

B. Dimensional Requirements.

*Figure 200-3-4, RF Zoning District Development Options*

<b>Development Option</b>	<b>Density Allowance</b>	<b>Required Open Space</b>
Option 1	12 Dwelling Units per acre of gross Tract acreage	15% of gross Tract acreage, plus Constrained Land
Option 2 <sup>1</sup>	1 Acre minimum Lot Size	Open Space is permitted, but not required

<sup>1</sup> Development Option 2 is only available when it is determined by the appropriate public Utility service provider that either sewer or water services is not available to be used or extended to facilitate development.

Figure 200-3-5, Dimensional Requirements in the RF Zoning District – Option 1 Development Type

Maximum Density	See <a href="#">Figure 200-3-4, RF Zoning District Development Options</a>
Maximum Residential Lot Size, excluding Multi-Unit	.5 acre
Minimum Lot Size	
Residential Uses	Flexible
Non-Residential Use	10,000 square feet
Minimum Lot Width	
Dwelling; Single-Unit Detached	50 feet
Dwelling; Single-Unit Semi-Attached	25 feet
Dwelling; Two-Unit	25 feet
Dwelling; Townhouse	18 feet
Dwelling; Multi-Unit	75 feet
Non-Residential Use	75 feet
Minimum Principal Structure Setbacks	
Front	10 feet minimum, 30 feet maximum
Side	10 feet
Rear	10 feet
Minimum Accessory Structure Setbacks <sup>1</sup>	
Front	20 feet
Side	10 feet
Rear	10 feet
Maximum Building Height	48 feet
Maximum Impervious Lot Coverage	
Single-Unit Detached	50%
Single-Unit Semi-Attached	70%
Two-Unit	70%
Townhouse	80%
Multi-Unit	85%
Non-Residential Use	60%

<sup>1</sup> All dimensional standards of Accessory Structures must comply with the [§ 200-413-A, General Provisions](#).

Figure 200-3-6 RF Zoning District - Option 1 Development Housing Mix Requirements

Total Number of Housing Units	Minimum Number of Housing Types <sup>1</sup> Required	Minimum Percentage of Each Housing Type
Fewer than 25	1	N/A
25 – 75	2	15%
More than 75	3	25%

Figure 200-3-7 Dimensional Requirements for RF Zoning District – Option 2 Development Type

Minimum Lot Size	1 acre
Minimum Lot Width	150 feet
Minimum Principal Structure Setbacks	
Front	50 feet
Side	25 feet
Rear	25 feet
Minimum Accessory Structure Setbacks <sup>2</sup>	
Front	50 feet
Side	10 feet
Rear	10 feet
Maximum Building Height	35 feet
Maximum Impervious Lot Coverage	40%

- D. Use Regulations. See [Figure 200-4-1, Table of Permissible Uses](#).

<sup>1</sup> Single-Unit Detached, Single-Unit Semi-Attached, Two-Unit, Townhouse, and Multi-Unit shall each be considered a separate housing type.

<sup>2</sup> All dimensional standards of Accessory Structures must comply with the [§ 200-413-A, General Provisions](#).

§200-310 VC- Village Center

A. *Intent.* Village Center (VC) is intended to provide an area in and around Toughkenamon Village that establishes an area, accessible for Township residents and others, that provides for a variety of residential, retail, and personal service Uses. This is accomplished by:

- 1) Allowing for several retail and personal service Uses that provide value to the surrounding homes and help foster a walkable village feel.
- 2) Promoting pedestrian connectivity as a priority for both new and infill Development.
- 3) Focusing on Uses and standards that allow for a cohesive transition to the surrounding Commercial and residential areas.

B. *Dimensional Requirements.*

*Figure 200-3-8, Dimensional Requirements in the VC Zoning District*

Dimension	Requirement
<b>Minimum Lot Size by Use</b>	
Dwelling; Single-Unit Detached	4,000 square feet
Dwelling; Single-Unit Semi-Attached	2,000 square feet
Dwelling; Townhouse	1,000 square feet
Dwelling; Two-Unit	4,000 square feet
Dwelling; Multi-Unit	1,000 square feet per unit
Nonresidential use	10,000 square feet
<b>Minimum Lot Width</b>	
Dwelling; Single-Unit Detached	30 feet
Dwelling; Single-Unit Semi-Attached	25 feet
Dwelling; Two-Unit	25 feet
Dwelling; Townhouse	18 feet
Dwelling; Multi-Unit	30 feet
Non-Residential Use	30 feet
<b>Minimum Principal Structure Setbacks</b>	
Front	5 feet minimum, 25 feet maximum 10 feet minimum, 40 feet maximum for Lots with Frontage on Baltimore Pike or Newark Road
Side	5 feet
Rear	10 feet
<b>Minimum Accessory Structure Setbacks<sup>1</sup></b>	
Front	25 feet
Side	5 feet
Rear	10 feet
Maximum Building Height	45 feet
Maximum Impervious Lot Coverage	80%

<sup>1</sup> All dimensional standards of Accessory Structures must comply with the [§ 200-413-A, General Provisions](#).

C. Building Form Standards.

- 1) Buildings shall be built as close to the property line or Right-Of-Way as possible to develop a pedestrian-oriented landscape that activates the roadways in the Village Center District.
- 2) Setbacks are varied to allow for flexibility but shall not be used for parking.
- 3) Buildings shall utilize elements such as massing, various materials, Windows, canopies, and articulated Roofs to create a visually distinct Building, both horizontally and vertically.
- 4) Articulation. Facades should be varied and articulated to provide visual interest. The Roof line of Buildings should be modulated and should include interesting architectural features, such as decorative eave, trim, or cornice. Storefront designs and materials should be allowed to be unique while maintaining the character of the Building Facade of which they are a part. The base of Buildings should be articulated through Use of plinths, pilasters, or other elements.

*Figure 200-3-9, Form Based Standards in the VC Zoning District*

Standard	Requirement
Sidewalks	5 feet minimum
Roofs	Green Roofs permitted and encouraged Utilities: HVAC and similar shall be screened and not visible from ground level
Façade Transparency (nonresidential)	Ground level Façade transparency – 70% Upper floor Façade Transparency – 40%
Building Entrances	Primary entrance shall be located at the front of the Building or adjacent to a sidewalk or Shared Use Pathway
Building Height Variation	Roofline Heights must be varied a minimum of 2 feet for Building Facades greater than 75 feet in width

D. Use Regulations. See [Figure 200-4-1, Table of Permissible Uses.](#)

§200-311 VG- Village Gateway

A. *Intent.* The Village Gateway (VG) district is intended to create an attractive, well-designed entrance into the Township around Toughkenamon Village that provides a suitable area for a mixture of retail, Commercial, and residential Uses to serve the surrounding areas and the Township as a whole. This is accomplished by:

- 1) Permitting a variety of retail, Commercial, and residential Uses that help support the surrounding residential and mixed-use areas, and the Township.
- 2) Promoting a design pattern that focuses on form and character rather than an auto-oriented approach.

B. *Dimensional Requirements.*

Figure 200-3-10, Dimensional Requirements in the VG Zoning District

Dimension	Requirement
Minimum Lot Size	10,000 square feet
Minimum Lot Width	50 feet
Principal Structure Setbacks	
Front	15 feet minimum, 40 feet maximum
Side	10 feet
Rear	30 feet
Minimum Accessory Structure Setbacks <sup>1</sup>	
Front	40 feet
Side	10 feet
Rear	15 feet
Maximum Building Height	60 feet
Maximum Lot Coverage	70%

C. *Building Form Standards.*

- 1) Buildings shall be built as close to the property line or Right-Of-Way as possible to develop a pedestrian-oriented landscape that activates the roadways in the Village Gateway District.
- 2) Setbacks are varied to allow for flexibility but shall not be used for parking.
- 3) Buildings shall utilize elements such as massing, various materials, Windows, canopies, and articulated Roofs to create a visually distinct Building.
- 4) *Articulation.* Facades should be varied and articulated to provide visual interest. The Roof line of Buildings should be modulated and should include interesting architectural features, such as decorative eave, trim, or cornice. Storefront designs and materials should be allowed to be unique while maintaining the character of the Building Facade of which they are a part. The base of Buildings should be articulated through use of plinths, pilasters, or other elements.

<sup>1</sup> All dimensional standards of Accessory Structures must comply with the [§ 200-413-A, General Provisions](#).

*Figure 200-3-11, Form Based Standards in the VG Zoning District*

<b>Standard</b>	<b>Requirement</b>
Sidewalks	6 feet minimum
Roofs	Green Roofs permitted and encouraged Utilities: HVAC and similar shall be screened and not visible from ground level
Façade Transparency (nonresidential)	Ground level transparency – 50% Upper floor transparency – 20%
Building Entrances	Primary entrance shall be located at the front of the Building or adjacent to a sidewalk or Shared Use Pathway
Building Height Variation	Roofline heights must be varied a minimum of 2 feet for Building Facades greater than 75 feet in width

D. Use Regulations. See [Figure 200-4-1, Table of Permissible Uses.](#)

§200-312 LL – Limestone Light Industrial

A. *Intent.* The Limestone Light Industrial Zoning District is established to provide a transition between mixed-use and residential areas, and promote neighborhood-scale commercial activities, small-scale manufacturing, light industrial, and residential uses, compatible with the nearby residential environment.

B. *Dimensional Regulations.*

Figure 200-3-12, Dimensional Requirements in the LL Zoning District

Dimension	Requirement
Minimum Lot Size	.5 acre
Minimum Lot Width	50 feet
Principal Structure Setbacks	
Front	20 feet
Side	10 feet
Rear	20 feet
Minimum Accessory Structure Setbacks <sup>1</sup>	
Front	20 feet
Side	10 feet
Rear	20 feet
Maximum Building Height	45 feet
Maximum Lot Coverage	55%

C. *Use Regulations.* See [Figure 200-4-1, Table of Permissible Uses.](#)

<sup>1</sup> All dimensional standards of Accessory Structures must comply with the [§ 200-413-A, General Provisions.](#)

§200-313 MU- Mixed-Use Corridor

A. *Intent.* The Mixed-Use Corridor (MU) district is intended to provide for an appropriate mix of compatible residential, Commercial and office space opportunities across various modes of transportation designed to provide vital services to the surrounding residential neighborhoods. This is accomplished by:

- 1) Enhancing economic vitality by attracting diverse businesses and providing a convenient and attractive environment for shoppers, employees, and visitors.
- 2) Encourages high-quality Development and Redevelopment by creating a cohesive and visually appealing Commercial area that meets the needs of the Township.
- 3) Providing means of access and circulation for various modes of transportation, vehicular and otherwise, to give residents and visitors safe mobility choices throughout the Township.

B. *Dimensional Requirements.*

*Figure 200-3-13, Dimensional Requirements in the MU Zoning District*

Dimension	Requirement
<b>Minimum Lot Size</b>	
Residential Uses	Flexible
Non-Residential Use	.5 acre
<b>Minimum Lot Width</b>	
Dwelling; Single-Unit Detached	40 feet
Dwelling; Single-Unit Semi-Attached	25 feet
Dwelling; Two-Unit	25 feet
Dwelling; Townhouse	20 feet
Dwelling; Multi-Unit	75 feet
Non-Residential Use	50 feet
<b>Minimum Principal Structure Setbacks</b>	
Front	25 feet
Side	10 feet
Rear	15 feet
<b>Minimum Accessory Structure Setbacks<sup>1</sup></b>	
Front	40 feet
Side	10 feet
Rear	15 feet
<b>Maximum Building Height</b>	
60 feet	
<b>Maximum Impervious Lot Coverage</b>	
Dwelling; Single-Unit Detached	50%
Dwelling; Single-Unit Semi-Attached	70%
Dwelling; Two-Unit	70%
Dwelling; Townhouse	80%
Dwelling; Multi-Unit	85%

<sup>1</sup> All dimensional standards of Accessory Structures must comply with the [§ 200-413-A, General Provisions](#).

<b>Dimension</b>	<b>Requirement</b>
Non-Residential Use	75%

C. Use Regulations. See [Figure 200-4-1, Table of Permissible Uses.](#)

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§200-314 IO – Innovation

- A. *Intent.* The intent of the Innovation district is to foster a dynamic and adaptable environment that accommodates a diverse range of Uses, including residential, Commercial, Industrial, and recreational activities. This is done by:
- 1) Being flexible, allowing for the evolution of market demands and community needs over time.
  - 2) Promoting a mixture of Uses to create vibrant, sustainable, and economically resilient areas.
  - 3) Encouraging the Development of Public or private amenities that can serve as a destination for visitors throughout the region.

B. *Dimensional Requirements.*

Figure 200-3-14, Dimensional Requirements in the IO Zoning District

Dimension	Requirement
<b>Nonresidential Uses</b>	
Minimum Lot Size	1 acre
Minimum Lot Width	150 feet
Minimum Principal Structure Setbacks	
Front	50 feet
Side	25 feet
Rear	35 feet
Minimum Accessory Structure Setbacks <sup>1</sup>	
Front	50 feet
Side	25 feet
Rear	25 feet
Maximum Building Height	55 feet
Maximum Impervious Lot Coverage	60%
<b>Residential Uses</b>	
Minimum Lot Size	
Dwelling; Single-Unit Detached	4,000 square feet
Dwelling; Single-Unit Semi-Attached	2,000 square feet
Dwelling; Townhouse	1,000 square feet
Dwelling; Two-Unit	4,000 square feet
Dwelling; Multi-Unit	Flexible
Minimum Lot Width	
Dwelling; Single-Unit Detached	40 feet
Dwelling; Townhouse	15 feet
Dwelling; Two-Unit	50 feet

<sup>1</sup> All dimensional standards of Accessory Structures must comply with the [§ 200-413-A, General Provisions](#).

Dimension	Requirement
Dwelling; Single-Unit Semi-Attached	30 feet
Dwelling; Multi-Unit	75 feet
Minimum Principal Structure Setbacks	
Front	15 feet
Side	10 feet
Rear	25 feet
Minimum Accessory Structure Setbacks	
Front	15 feet
Side	10 feet
Rear	10 feet
Maximum Building Height	45 feet
Minimum Building Height	25 feet
Maximum Impervious Lot Coverage	
Dwelling; Single-Unit Detached	50%
Dwelling; Single-Unit Semi-Attached	60%
Dwelling; Townhouse	80%
Dwelling; Two-Unit	80%
Multi-Unit	85%

C. Use Regulations. See [Figure 200-4-1, Table of Permissible Uses.](#)

§200-315 EP – Enterprise

- A. *Intent.* The Enterprise (EP) district is established to foster a dynamic and thriving business environment that encourages economic growth, innovation, and job creation. This district is designed to support a diverse range of Commercial activities, including agricultural, offices, retail, light manufacturing, and technology-based enterprises. This is done through:
- 1) Providing a flexible set of Development regulations that aims to attract new businesses, facilitate the expansion of existing enterprises, and promote sustainable Development practices.
  - 2) Prioritizes high-quality infrastructure, efficient transportation networks, and access to essential services to ensure a conducive environment for business operations.
  - 3) Focuses on reducing the impact of business and Commercial activities on immediately surrounding residential and mixed-use properties.

B. *Dimensional Requirements.*

*Figure 200-3-15, Dimensional Requirements in the EP Zoning District*

Dimension	Requirement
Minimum Lot Size	1 acre
Minimum Lot Width	100 feet
Minimum Principal Structure Setbacks	
Front	25 feet
Side	25 feet
Rear	25 feet
Minimum Accessory Structure Setbacks <sup>1</sup>	
Front	25 feet
Side	20 feet
Rear	20 feet
Maximum Building Height	45 feet
Maximum Impervious Lot Coverage	60%

- C. *Use Regulations.* See [Figure 200-4-1, Table of Permissible Uses](#).

<sup>1</sup> All dimensional standards of Accessory Structures must comply with the [§ 200-413-A, General Provisions](#).

§200-316 AP- Airport

- A. *Intent.* The Airport (AP) district is intended to facilitate the functions of the New Garden Airport and support the business and services that it offers. This is done to:
- 1) Encourage the Development of employment centers in proximity to the U.S. Route 1 and Newark Road interchange and to provide a gateway into the Township.
  - 2) Preserve the character and natural features of the Township while encouraging economic Development in this geographic area of the Township with the airport as the cornerstone.
  - 3) Encourage, facilitate and support the creation of economic development and employment opportunities and compatible allied and accessory Uses.

B. *Dimensional Requirements.*

*Figure 200-3-16, Dimensional Requirements in the AP Zoning District*

Dimension	Requirement
Minimum Lot Size	1 acre
Minimum Lot Width	150 feet
Minimum Principal Structure Setbacks	
Front	75 feet
Side	25 feet
Rear	35 feet
Minimum Accessory Structure Setbacks <sup>1</sup>	
Front	75 feet
Side	25 feet
Rear	25 feet
Maximum Building Height	35 feet
Maximum Impervious Lot Coverage	60%

- C. *Use Regulations.* See [Figure 200-4-1, Table of Permissible Uses.](#)

<sup>1</sup> All dimensional standards of Accessory Structures must comply with the [§ 200-413-A, General Provisions.](#)

§200-317 AHO – Airport Hazard Overlay

- A. Intent. The intent of the Airport Hazard Overlay is to ensure that all property and occupants of lands in the vicinity of the airport are protected from its hazards. Furthermore, it is the intent of this article to ensure all users of the airport and their property are protected from safety hazards. It is the specific purpose of this article to:
- 1) Prohibit all Obstructions that reduce the area available for landing, takeoff and maneuvering of the aircraft;
  - 2) Require special Height controls for Buildings and Structures within areas designated "Airport Hazard" as defined by this Chapter; and
  - 3) Establish Height restrictions that prevent the erection of Structures interfering or obstructing airplane approaches or airport operations. By imposing Height restrictions, the Airport Hazard Zone enhances Public safety and minimizes the disruption of existing Zoning policies or Existing Land Uses. Interference and Obstruction poses a threat to the health, safety, welfare and convenience of residents of the Township and passengers aboard the aircraft.
- B. Federal Aviation Administration (FAA) Advisory Circulars. The New Garden Airport and the Airport Hazard Overlay shall be guided by the regulations and guidelines provided within the FAA Advisory Circulars, as amended.<sup>1</sup>
- C. Airport Zones. The following zones have been created to carry out the intent of this article.
- 1) Approach zone. A zone longitudinally centered on the extended Runway center line and extending outward from each end of the Primary Surface. The inner edge of the approach zone coincides with the width of the Primary Surface and the approach zone expands outward uniformly to a width of 3,500 feet at a horizontal distance of 10,000 feet from the Primary Surface.
  - 2) Horizontal zone. A zone established by swinging arcs of 5,000 feet radii from the center of each end of the Primary Surface of each Runway and connecting the adjacent arcs by lines tangent to these arcs. The horizontal zone does not include the approach zone.
  - 3) Conical zone. The conical zone is established as the area that commences at the periphery of the horizontal zone and extends outward a horizontal distance of 4,000 feet.
  - 4) Transitional surface zone. The transitional zone Slopes seven feet outward for each one foot upward beginning at the sides of and at the same elevation as the primary and approach surfaces extending to a Height of 150 feet above the Airport Elevation to where these transitional surfaces intersect with the horizontal and conical surfaces.
- D. Airport Zone Height Standards. Except as otherwise provided, no Structure or tree shall be erected, altered, allowed to grow or be maintained in any zone created by this article to a Height in excess of the applicable Height limit. Applicable Height limitations are as follows:

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<sup>1</sup> [https://www.faa.gov/regulations\\_policies/advisory\\_circulars/index.cfm/go/document.list/topicID/11](https://www.faa.gov/regulations_policies/advisory_circulars/index.cfm/go/document.list/topicID/11)

Figure 200-3-17, Airport Zone Height Standards in AHO Zoning District

Zone	Height Standard
Approach	The Height limit in the approach zone shall be a line beginning at each end of and at the same elevation as the Primary Surface and sloping upward 34 feet horizontally for each foot vertically to a horizontal distance of 10,000 feet along the extended Runway center line.
Horizontal	The Height limit in the horizontal zone shall be 585 feet above mean sea level.
Conical	The conical zone Slopes 20 feet outward for every foot upward beginning at the periphery of the horizontal zone and at 350 feet above the Airport Elevation and extending to a Height of 436 feet above the Airport Elevation.
Transitional surface	Where an area is covered by more than one Height limitation, the more restrictive limitation shall prevail.

E. Use Standards. No use may be made of land or water within the zone established by this article that creates electrical interference with navigational signals or radio communication between aircraft or between the airport and aircraft; makes it difficult for pilots to distinguish between airport lights and others; results in glare in the eyes of pilots using the airport; impairs visibility in the vicinity of the airport; constitutes an artificial attractant to birds; or otherwise creates a hazard or endangers the landing, takeoff, or maneuvering of aircraft intending to use the airport. All Uses permitted by the underlying Zoning district are subject to the Height limitations prescribed by this article as well as the standards of the underlying Zoning district.

F. Permits.

1) Future Uses. No material change shall be made in the use of land and no Structure or tree shall be erected, altered, planted, or otherwise established in any zone hereby created unless granted a permit.

a) A permit for a tree or Structure of less than 75 feet of vertical Height above the ground is not required in the horizontal zones or in any approach zones beyond a horizontal distance of 4,200 feet from each end of the Runway except when such tree or Structure, because of terrain, land contour, or topographic features, would extend above the Height limit for the respective zone.

b) Each Applicant for a Building permit, or a permit to alter or change an existing Structure, shall indicate the purpose(s) for which the permit is desired. Said application shall help determine whether the resulting Use, Structure or tree would conform to the regulations of this article. The fee for the permit shall be in an amount equal to the existing charges for a Building permit.

c) The Applicant shall submit:

- (i) Plans, topographic surveys, drawings, blueprints and the like necessary to ascertain the Height of any proposed Building or Structure.
  - (ii) Certification from a professional engineer registered in Pennsylvania stating that they have reviewed the Applicant's specifications to ensure that the proposed Use does not violate applicable standards.
  - (iii) Hazard marking and Lighting. Any permit or Variance granted may be conditioned to require the Owner of the Structure or tree in question to permit New Garden Township, at its own expense, to install, operate, and maintain markers and lights necessary to indicate to pilots the presence of an Airport Hazard.
- G. Conflicting regulations. Where there exists a conflict between any of the regulations or limitations prescribed in this article and any other regulations applicable to the same area, whether the conflict be with respect to the Height of Structures or trees, the Use of land, or any other matter, the more stringent limitation or requirement shall prevail.

## Article IV – Uses

### §200-401 General

The following general provisions apply to the Uses outlined in this Article.

- A. *Multiple Uses on a Parcel.* In Mixed-Use and Industrial Zoning Districts and Residential Flex Zoning District, more than one Principal Use may be erected on a single Lot provided that all Lot and Yard requirements, standards, and other requirements of this Chapter shall be met for each Structure, as though it were on an individual Lot.
- B. *Multiple Uses in a Building.* Occupancy of a Principal Building by more than one permitted Use is specifically allowed in the Mixed-Use and Industrial Zoning Districts and Residential Flex Zoning District provided that all other requirements of this Chapter are satisfied.
- C. Uses are either permitted by right, Special Exception, or Conditional Use.
- D. No Building, Structure, or Land shall be used in any way other than the Uses permitted in the Zoning district in which the Building, Structure, or Land is located, with the exception of the continuation of existing Nonconforming Uses.
- E. *Continuation of Existing Nonconforming Uses.* The continuation of any existing Nonconforming Use is permitted at the time of adoption of these regulations is permitted, subject to the nonconforming Use standards specified in [Article XI, Nonconformities](#).

### §200-402 Uses

- A. [Figure 200-4-1, Table of Permissible Uses](#), identifies the Principal, Accessory, and Temporary Uses allowed in each Zoning district and are defined in this Chapter.
- B. Principal, Accessory, and Temporary Uses are given one of the following designations specified in [Figure 200-4-1, Table of Permissible Uses](#).
  - 1) *Permitted by Right ("P").* These Uses are permitted automatically by right in the Zoning districts in which they are listed are subject to the general regulations under this Chapter.
  - 2) *Permitted by Special Exception ("S").* These Uses are not permitted by right but are subject to the Special Exception standards and criteria specified under [§200-115, Special Exception Use Procedures](#), of this Chapter.
  - 3) *Permitted by Conditional Use ("C").* These Uses are permitted subject to specific standards and more detailed and formal review procedures as specified under [§200-116, Conditional Use Procedures](#), of this Chapter.
  - 4) *Non-Permitted Uses.* Uses not permitted, whether expressly permitted or permitted upon interpretation and classification by the Zoning Officer, within a Zoning district shall be deemed excluded. The Zoning Officer shall make a Determination of the classification of all land Uses within

the context and intent of this Chapter and may issue a Decision regarding whether a particular Use is permitted or excluded in a Zoning district, all in accordance with this Chapter.

#### §200-403 Uses Not Provided For

- A. Whenever a Use is not provided for in this Chapter, whether as Permitted by Right, Special Exception, or Conditional Use, within any Zoning District within the Township, then the proposed Use shall be considered a Special Exception and shall be approved pursuant to the requirements specified under [§200-113, Zoning Hearing Board](#), of this Chapter. The Zoning Hearing Board may attach reasonable conditions to the issuance of a permit incorporating existing standards from similar Uses in the district and such other restrictions as the Board may deem appropriate. In addition to such requirements, the proposed Use shall also be approved based on the following Use character eligibility standards.
- 1) The proposed Use shall be consistent with and meet the stated purpose and intent of the Zoning district within which the Use is being proposed.
  - 2) The proposed Use shall be consistent with and uphold the general form, function, and design character of the neighborhood within which the Use is being proposed.
  - 3) The proposed Use shall be less intensive in external impacts and nuisances than Uses that are permitted in the Zoning District.
  - 4) The Use shall be similar to and compatible with the permitted Uses in the zone in which the subject property is located, is not permitted in any other zone under the terms of this Chapter, and in no way is in conflict with the general purposes and intent of this Chapter.
  - 5) The proposed Use shall not be specifically prohibited in that Zoning District.
  - 6) The burden of proof shall be upon the Applicant to demonstrate that the proposed Use meets the foregoing criteria and would not be detrimental to the Public health, safety, and welfare of the Township and its residents.

#### §200-404 Organization

Uses are grouped into general categories, which are further broken into subcategories and specific Use types that are specifically defined in this Chapter.

Figure 200-4-1, Table of Permissible Uses

DISTRICT USE TABLE		MAPPED ZONING DISTRICTS										
		Parks & Open Space	Residential Low-Density	Residential Medium-Density	Residential Flex	Village Center	Village Gateway	Limestone Light Industrial	Mixed-Use Corridor	Innovation	Enterprise	Airport
Key:	Supplemental Use Regulations (if applicable)	PO	RL	RM	RF	VC	VG	LL	MU	IO	EP	AP
Uses		PO	RL	RM	RF	VC	VG	LL	MU	IO	EP	AP
<b>RESIDENTIAL AND LODGING USES</b>												
Assisted Living Facility	§200-405-A							S	S	S	S	
Bed and Breakfast	§200-405-B		P	P	P	P	P	P	P			
Boardinghouse	§200-405-C				C	C	C		C			
Community Residence, Group Home	§200-405-D		C	C	C	C	C		C			
Community Residence, Recovery Home	§200-405-D		C	C	C	C	C	S	C			
Dwelling, Multi-Unit	§200-405-E				P	P	P	P	P	P		
Dwelling, Single-Unit Detached			P	P	P	P		P	P	P		
Dwelling, Single-Unit Semi-Attached				P	P	P	P	P	P	P		
Dwelling, Townhouse				P	P	P	P	P	P	P		
Dwelling, Two-Unit				P	P	P	P	P	P	P		
Hotel	§200-405-F					P	P	C	P	P		P
Live-Work Unit	§200-405-G					P	P	C	P	P		
Manufactured Home			P	P	P	P	P					
Manufactured Home Community	§200-405-H			C	C	C	C					
Mixed-Use Building	§200-405-I				P	P	P	P	P	P		

**DRAFT NEW GARDEN TOWNSHIP ZONING ORDINANCE**

<b>DISTRICT USE TABLE</b>		<b>MAPPED ZONING DISTRICTS</b>										
		<b>Parks &amp; Open Space</b>	<b>Residential Low-Density</b>	<b>Residential Medium-Density</b>	<b>Residential Flex</b>	<b>Village Center</b>	<b>Village Gateway</b>	<b>Limestone Light Industrial</b>	<b>Mixed-Use Corridor</b>	<b>Innovation</b>	<b>Enterprise</b>	<b>Airport</b>
<b>Uses</b>	<b>Supplemental Use Regulations (if applicable)</b>	<b>PO</b>	<b>RL</b>	<b>RM</b>	<b>RF</b>	<b>VC</b>	<b>VG</b>	<b>LL</b>	<b>MU</b>	<b>IO</b>	<b>EP</b>	<b>AP</b>
Key:												
P = Permitted by Right												
S = Permitted by Special Exception												
C = Permitted by Conditional Use												
Blank = Non-Permitted Use												
Motel						P	P		P			
Short-Term Rental, Principal	§200-405-J		S	S	S	S	S		S	S		
Temporary Shelter Facility	§200-405-K					C	C		C		C	C
<b>CIVIC AND INSTITUTIONAL USES</b>												
Assembly, General (>10,000 GFA)							P	S	S	P	P	P
Assembly, Neighborhood (<10,000 GFA)			S	S	P	P	P	C	C	P	P	P
Cemetery	§200-406-A	C	C	C	C	C	C					
Government Facility		P	P	P	P	P	P	P	P	P	P	P
Hospital	§200-406-B							C	P	P	P	P
Hospital, Small Format	§200-406-C				S	P	P	P	P	P	P	P
Library/Museum		C			P	P	P	P	P	P	P	P
Medical Marijuana Academic Research Center	§200-406-D							P		P	P	P
Police/Fire/EMS		P	P	P	P	P	P	P	P	P	P	P
School, Higher Education and Vocational					S	P	P	P	P	P	P	P
School, Pre-Kindergarten to High School	§200-406-E		S	S	S	P	P	P	P	P		

**DRAFT NEW GARDEN TOWNSHIP ZONING ORDINANCE**

DISTRICT USE TABLE	Supplemental Use Regulations (if applicable)	MAPPED ZONING DISTRICTS										
		Parks & Open Space	Residential Low-Density	Residential Medium-Density	Residential Flex	Village Center	Village Gateway	Limestone Light Industrial	Mixed-Use Corridor	Innovation	Enterprise	Airport
		PO	RL	RM	RF	VC	VG	LL	MU	IO	EP	AP
Key: P = Permitted by Right S = Permitted by Special Exception C = Permitted by Conditional Use Blank = Non-Permitted Use												
<b>Uses</b>												
Stadium/Arena	§200-406-F									C	C	
<b>AGRICULTURE, RECREATION, AND OPEN SPACE USES</b>												
Campground	§200-407-A	C		C	C							
Community Garden, Principal	§200-407-B	S	P	P	P	P	P	P			P	
Composting Operation, Commercial											P	
Firearms Target Range, Indoor	§200-407-C							S	S	C	C	
Firearms Target Range, Outdoor	§200-407-D										C	
Forestry Operation	§200-407-E	P	P	P	P	P	P	P	P	P	P	P
Golf Course/ Country Club	§200-407-F	S	S	S	S							P
Medical Marijuana Grower/ Processor	§200-407-G										P	P
Nature Preserve		P	P	P	P	P	P	P	P	P		P
Normal Agricultural Operation, inclusive of Composting Operation, Agricultural			P	P	P						P	
Park	§200-407-H	P	P	P	P	P	P	P	P	P		P

**DRAFT NEW GARDEN TOWNSHIP ZONING ORDINANCE**

<b>DISTRICT USE TABLE</b>		<b>MAPPED ZONING DISTRICTS</b>										
		<b>Parks &amp; Open Space</b>	<b>Residential Low-Density</b>	<b>Residential Medium-Density</b>	<b>Residential Flex</b>	<b>Village Center</b>	<b>Village Gateway</b>	<b>Limestone Light Industrial</b>	<b>Mixed-Use Corridor</b>	<b>Innovation</b>	<b>Enterprise</b>	<b>Airport</b>
<b>Key:</b>	<b>Supplemental Use Regulations (if applicable)</b>	<b>PO</b>	<b>RL</b>	<b>RM</b>	<b>RF</b>	<b>VC</b>	<b>VG</b>	<b>LL</b>	<b>MU</b>	<b>IO</b>	<b>EP</b>	<b>AP</b>
P = Permitted by Right S = Permitted by Special Exception C = Permitted by Conditional Use Blank = Non-Permitted Use		<b>Uses</b>										
Recreation, Commercial or Private		C	C	C	C	P	P	C	P	P		
Recreation, Public		P	C	C	C	P	P	P	P	P		
<b>RETAIL USES</b>												
Beer/Wine/Liquor Sales						P	P	S	P	P	P	
Cigarette/Vaporizer Store									P		P	
Commercial Equipment and Supply							S	P	P	S	P	P
Convenience Store	§200-408-A					S	P	S	P		P	
Medical Marijuana Dispensary	§200-408-B							S	S		P	
Outdoor Sales Lot	§200-408-C							P	P		P	
Retail, General (>3,000 sq. ft.)							P	S	P	P	P	
Retail, Neighborhood (<3,000 sq. ft.)				S	S	P	P	P	P	P	P	
<b>SERVICES USES</b>												
Adult Establishment	§200-409-A										C	
Animal Boarding, Daycare, and Training	§200-409-B						P		P		P	
Automobile Fueling and Limited Repair Service	§200-409-C						S	S	P		P	

**DRAFT NEW GARDEN TOWNSHIP ZONING ORDINANCE**

<b>DISTRICT USE TABLE</b>		<b>MAPPED ZONING DISTRICTS</b>										
		<b>Parks &amp; Open Space</b>	<b>Residential Low-Density</b>	<b>Residential Medium-Density</b>	<b>Residential Flex</b>	<b>Village Center</b>	<b>Village Gateway</b>	<b>Limestone Light Industrial</b>	<b>Mixed-Use Corridor</b>	<b>Innovation</b>	<b>Enterprise</b>	<b>Airport</b>
<b>Uses</b>	<b>Supplemental Use Regulations (if applicable)</b>	<b>PO</b>	<b>RL</b>	<b>RM</b>	<b>RF</b>	<b>VC</b>	<b>VG</b>	<b>LL</b>	<b>MU</b>	<b>IO</b>	<b>EP</b>	<b>AP</b>
Automobile Repair Garage	§200-409-D						S	S	S		P	C
Automobile, Truck, and Limousine Sales and Rental	§200-409-E								P		P	C
Brew Pub						P	P	P	P	P	P	
Car Wash	§200-409-F						S	S	C		P	
Day Care, Adult	§200-409-G					P	P	P	P			
Day Care, Child	§200-409-H		S	S	S	P	P	P	P	P		
Drinking Place		C				P	P		P	P	P	P
Drive Through Only Facility	§200-409-I								P		P	
Eating Place		C				P	P	P	P	P	P	P
Entertainment Assembly		C				P	P	S	P	P		
Event Venue					C	C	C	S	C	C	C	
Firearm Establishment	§200-409-J								S		C	
Funeral Home	§200-409-K					P	P	P	P		P	
Medical Clinic						P	P	P	P	P	P	C
Pawn Shop/Cash Checking									S		P	
Private Club							P	C	P	P		
Self-Storage Facility	§200-409-L						S	P	S		P	C

**DRAFT NEW GARDEN TOWNSHIP ZONING ORDINANCE**

<b>DISTRICT USE TABLE</b>		<b>MAPPED ZONING DISTRICTS</b>										
		<b>Parks &amp; Open Space</b>	<b>Residential Low-Density</b>	<b>Residential Medium-Density</b>	<b>Residential Flex</b>	<b>Village Center</b>	<b>Village Gateway</b>	<b>Limestone Light Industrial</b>	<b>Mixed-Use Corridor</b>	<b>Innovation</b>	<b>Enterprise</b>	<b>Airport</b>
<b>Uses</b>	<b>Supplemental Use Regulations (if applicable)</b>	<b>PO</b>	<b>RL</b>	<b>RM</b>	<b>RF</b>	<b>VC</b>	<b>VG</b>	<b>LL</b>	<b>MU</b>	<b>IO</b>	<b>EP</b>	<b>AP</b>
Key: P = Permitted by Right S = Permitted by Special Exception C= Permitted by Conditional Use Blank = Non-Permitted Use												
Self-Storage Facility, Indoor, Climate Controlled	§200-409-M						S	P	S		P	C
Service, General (>3,000 sq. ft.)							P	P	P	P	P	
Service, Neighborhood (<3,000 sq. ft.)		C				P	P	P	P	P		
Smoking Places									S			
Tattoo/Piercing Parlor	§200-409-N					S	S		P		P	
Treatment Facility	§200-409-O								C		C	
<b>EMPLOYMENT USES</b>												
Bio-medical Facility								S	P	P	P	P
Office						P	P	P	P	P	P	P
Research, Experimental, and Technology Center (RETCs)								P	P	P	P	P
Science and Technology Center (STCs)								P	P	P	P	P
<b>INFRASTRUCTURE USES</b>												
Aviation	§200-411-A											P
Parking, Principal	§200-411-B						P	P	P	S	P	P
Solar Energy System, Principal	§200-411-C							P		P	P	P

**DRAFT NEW GARDEN TOWNSHIP ZONING ORDINANCE**

<b>DISTRICT USE TABLE</b>		<b>MAPPED ZONING DISTRICTS</b>										
		<b>Parks &amp; Open Space</b>	<b>Residential Low-Density</b>	<b>Residential Medium-Density</b>	<b>Residential Flex</b>	<b>Village Center</b>	<b>Village Gateway</b>	<b>Limestone Light Industrial</b>	<b>Mixed-Use Corridor</b>	<b>Innovation</b>	<b>Enterprise</b>	<b>Airport</b>
<b>Uses</b>	<b>Supplemental Use Regulations (if applicable)</b>	<b>PO</b>	<b>RL</b>	<b>RM</b>	<b>RF</b>	<b>VC</b>	<b>VG</b>	<b>LL</b>	<b>MU</b>	<b>IO</b>	<b>EP</b>	<b>AP</b>
Transportation and Utilities, Public Utilities	§200-411-D	P	P	P	P	P	P	P	P	P	P	P
Transportation and Utilities, Transit Bus Stop	§200-411-D	P	P	P	P	P	P	P	P	P	P	P
Transportation and Utilities, Transit Facility							P		P	P	P	P
Wind Energy System, Principal	§200-411-E								P	S	P	P
Wireless Communications Facility, Small, inside the Public Rights-of-way	§200-411-F	P	P	P	P	P	P	P	P	P	P	P
Wireless Communications Facility, Small, outside the Public Rights-of-way	§200-411-F					P	P	P	P	P	P	P
Wireless Communications Facility, tower-based	§200-411-F								S	S	S	S
<b>INDUSTRIAL USES</b>												
Air Transport Package Handling Facility												P
Brewery, Distillery, Winery	§200-412-A					P	P	P	P	P	P	
Data Center	§200-412-B									C	P	
Industrial, Craftsman						S	S	P	P	P	P	
Industrial, Heavy									C	C	C	
Industrial, Light	§200-412-C							P	P	P	P	P

**DRAFT NEW GARDEN TOWNSHIP ZONING ORDINANCE**

<b>DISTRICT USE TABLE</b>		<b>MAPPED ZONING DISTRICTS</b>										
		<b>Parks &amp; Open Space</b>	<b>Residential Low-Density</b>	<b>Residential Medium-Density</b>	<b>Residential Flex</b>	<b>Village Center</b>	<b>Village Gateway</b>	<b>Limestone Light Industrial</b>	<b>Mixed-Use Corridor</b>	<b>Innovation</b>	<b>Enterprise</b>	<b>Airport</b>
<b>Uses</b>	<b>Supplemental Use Regulations (if applicable)</b>	<b>PO</b>	<b>RL</b>	<b>RM</b>	<b>RF</b>	<b>VC</b>	<b>VG</b>	<b>LL</b>	<b>MU</b>	<b>IO</b>	<b>EP</b>	<b>AP</b>
Key:												
P = Permitted by Right												
S = Permitted by Special Exception												
C = Permitted by Conditional Use												
Blank = Non-Permitted Use												
Junkyard	§200-412-D										P	
Outdoor Storage Yard	§200-412-E										P	C
Solid Waste Disposal Facility	§200-412-F										C	
Trucking Terminal	§200-412-G						P	C	C	C	P	
Warehouse/ Logistics Use, Large	§200-412-H						P	C	C	C	P	
Warehouse/ Logistics Use, Small	§200-412-H						P	C	C	C	P	
<b>ACCESSORY USES</b>												
Agritourism Marketing Enterprise	§200-413-B	C	C	C	C	C	C	C	C	C	C	C
Community Garden, Accessory	§200-413-C		P	P	P	P	P	P				
Drive-Through Facility	§200-413-D							C	P		P	
Dwelling Unit, Accessory	§200-413-E		P	P	P	P	P	P				
Electric Vehicle Charging Station – Levels 1		P	P	P	P	P	P	P	P	P	P	P
Electric Vehicle Charging Station – Level 2 & 3	§200-413-F	P	P	P	P	P	P	P	P	P	P	P
Farm Stand	§200-413-G		P	P	P	P	P	P	P	P	P	

**DRAFT NEW GARDEN TOWNSHIP ZONING ORDINANCE**

<b>DISTRICT USE TABLE</b>  Key: P = Permitted by Right S = Permitted by Special Exception C= Permitted by Conditional Use Blank = Non-Permitted Use		<b>MAPPED ZONING DISTRICTS</b>										
		<b>Supplemental Use Regulations (if applicable)</b>	<b>Parks &amp; Open Space</b>	<b>Residential Low-Density</b>	<b>Residential Medium-Density</b>	<b>Residential Flex</b>	<b>Village Center</b>	<b>Village Gateway</b>	<b>Limestone Light Industrial</b>	<b>Mixed-Use Corridor</b>	<b>Innovation</b>	<b>Enterprise</b>
<b>Uses</b>	<b>Supplemental Use Regulations (if applicable)</b>	<b>PO</b>	<b>RL</b>	<b>RM</b>	<b>RF</b>	<b>VC</b>	<b>VG</b>	<b>LL</b>	<b>MU</b>	<b>IO</b>	<b>EP</b>	<b>AP</b>
Home Child Care	§200-413-H		P	P	P	P	P	P	P	P		
Home Based Business, No Impact	§200-413-I		P	P	P	P	P	P	P	P		
Home Occupation	§200-413-J		P	P	P	P	P	P	P	P		
Keeping of Chickens	§200-413-K		P	P	P	P	P	C			P	
Keeping of Honeybees	§200-413-L		P	P	P	P	P				P	
Keeping of Livestock			S	S	S			S			P	
Outdoor Dining Area	§200-413-M					P	P	C	P	P		
Outdoor Display and Sales	§200-413-N					P	P	P	P	P	P	
Retail, Accessory						P	P	P	P	P	P	
Short-Term Rental, Accessory	§200-413-O		S	S	S	S	S		S	S		
Solar Energy System, Accessory	§200-413-P	P	P	P	P	P	P	P	P	P	P	P
Transit Bus Stop, On-Site	§200-413-Q					P	P	P	P	P	P	
Wind Energy System, Accessory	§200-413-R	P	P	P	P	P	P	P	P	P	P	P

DISTRICT USE TABLE		MAPPED ZONING DISTRICTS										
		Parks & Open Space	Residential Low-Density	Residential Medium-Density	Residential Flex	Village Center	Village Gateway	Limestone Light Industrial	Mixed-Use Corridor	Innovation	Enterprise	Airport
Key:	Supplemental Use Regulations (if applicable)	PO	RL	RM	RF	VC	VG	LL	MU	IO	EP	AP
Uses		TEMPORARY USES										
Farmers Market	§200-414-B	P	S	S	S	P	P	P	P	P	P	P
Mobile Food Facility	§200-414-C	P	S	S	S	P	P	P	P	P	P	P
Open Air Market	§200-414-D	P	S	S	S	P	P	P	P	P	P	P
Temporary Construction Site Trailer	§200-414-E	P	P	P	P	P	P	P	P	P	P	P
Temporary Outdoor Event	§200-414-F	P	S	S	S	P	P	P	P	P	P	P

§ 200-405 Supplemental Use Regulations – Residential and Lodging

A. Assisted Living Facility. The following Use regulations apply:

- 1) The maximum permitted Density shall not exceed 10 residents per acre.
- 2) Copies of all required licenses or permits issued by county, state, or federal agencies shall be submitted to the municipality, and these required licenses, certificates, or permits shall be a condition for final approval.
- 3) The facility shall front on an arterial or collector Road.
- 4) Property shall be served by Public Water and Public Sewer.

B. Bed and Breakfast. The following Use regulations apply:

- 1) Shall not alter the residential nature of the neighborhood and/or the character of the Dwelling as a residence.
- 2) Guest stays shall be limited to a maximum of 14 consecutive days.

- 3) Access to guestrooms shall be via a main entrance, lobby, or foyer within the Building. No guestroom shall have a separate exterior access, except as may be required by applicable fire or Building codes.
- 4) No employees who are otherwise not eligible to be a member of the same household with the Owner of the Bed and Breakfast may live on-Site.
- 5) The Owner of the Bed and Breakfast shall be a permanent resident.
- 6) The Applicant must furnish written approval from the Chester County Health Department concerning the adequacy of the on-Site sewage disposal system to serve the increased demand resulting from the guest facility.

C. Boardinghouse. The following Use regulations apply:

- 1) Boardinghouses are distinguished from Hotels and Bed and Breakfast facilities by the following:
  - a) The length of stay is typically longer (typically a minimum of two weeks) for a Boardinghouse;
  - b) There is no daily room cleaning or other guest services provided for rooming or boarding and
  - c) The architectural character of a Boardinghouse Structure is primarily residential in nature.
- 2) The following Use regulations shall apply:
  - a) A common cooking and eating area must be provided; no cooking or dining facilities shall be provided in individual rooms or suites.
  - b) The minimum period of residency for all boarders/roomers shall be one week.
  - c) Where On-Lot Sewer is used, the Owner shall provide documentation from the Chester County Health Department specifying that the sewage disposal system can adequately accommodate all anticipated increase in sewage.
  - d) The house must retain the character of a Single-Unit Detached Dwelling.
  - e) In addition to the above requirements, Boardinghouses with five or more occupants, shall meet the requirements of Title 28, Health and Safety, of the Pennsylvania Code, Chapter 20, regulating responsibilities of the Owner, tenant, and requirements for water supply, toilet facilities, and ventilation and light and any other applicable State regulation and requirement.

D. Community Residence.

- 1) Group Home. The following Use regulations apply:
  - a) In a narrative form, a statement of the proposed use, including its location, number of residents, name, telephone number, and contact Person of the sponsoring agency.
  - b) A statement that all required approvals, permits, and licenses have been granted from the Federal, State, and County governments or other Public agencies.
  - c) Accommodations in a Group Home shall be provided for no more than the maximum number of occupants or residents as permitted by the applicable Building code, fire code, and any other similar code that sets forth a maximum occupancy limit for a dwelling or Building.
  - d) The Group Home shall maintain a similar appearance, condition, and character to the existing dwellings in the immediate vicinity of the Group Home.
- 2) Recovery Home. The following Use regulations apply:
  - a) Registration with the Commonwealth and compliance with all regulations for licensure or certification as promulgated by the Department of Drug and Alcohol Programs in accordance with 71 P.S. § 613.13,

as amended, or such other commonwealth agency or department as authorized by law. In the event that the Recovery Home is not registered and is not required to be licensed or certified by the Commonwealth, then the Recovery Home shall provide either:

- (i) Documentation that it would comply if subject to licensure and certification; or
  - (ii) Documentation that the Recovery Home is a member in good standing and in compliance with all rules and/or regulations of a recognized countywide, statewide, or nationwide Association of Recovery Homes or equivalent professional accrediting organization.
- b) Prior to the issuance of a Certificate of Occupancy by the Building Code Official, proof of licensure must be provided to the Zoning Officer. Additionally, and annually on January 31<sup>st</sup> of each year thereafter each operator must provide similar proof of Commonwealth registration and compliance or continued status as a member in good standing and in compliance with all the rules and/or regulations of a recognized county, state, or national professional association.
  - c) Residents of a Recovery Home shall maintain a single housekeeping unit with shared use of living areas, eating areas, bathrooms, food preparation, and serving areas and shall share mealtimes and housekeeping responsibilities.
  - d) A Recovery Home shall be directly affiliated with a parent institution or organization who shall provide full-time supervision and administration to the residents of the house.
  - e) Accommodations in a Recovery Home shall be provided for no more than the maximum number of occupants or residents as permitted by the applicable Building code, fire code, and any other similar code that sets forth a maximum occupancy limit for a dwelling or Building. Applications for a Recovery Home shall specify the maximum number of residents or occupants to be housed or cared for at the facility.
  - f) The Group Home shall maintain a similar appearance, condition, and character to the existing dwellings in the immediate vicinity of the Group Home.
  - g) Each Special Exception application shall be accompanied by a statement describing the following:
    - (i) The nature and character of the Recovery Home;
    - (ii) The policies and the goals of the Recovery Home;
    - (iii) The management and administration Structure;
    - (iv) The history of the parent institution and the characteristics of the residents, along with the number of residents to be served; and
    - (v) All other facts relevant to the operation of the Recovery Home.
- E. Dwelling, Multi-Unit. The following Use regulations apply:
- a) Property shall be served by Public Water and Public Sewer.
  - b) All multifamily Buildings shall be designed to provide complex massing configurations with a variety of different wall planes and Roof planes. Plain, monolithic Structures with long, monotonous, unbroken wall and Roof surfaces of 50 feet or more are prohibited. At least every 50 linear feet, wall and Roof planes shall contain offsets or Setbacks with a differential in horizontal plane of at least four feet
  - c) Accessory Buildings for Multi-Unit Dwellings.
    - (i) Detached Garages, carports and other accessory Structures, including, but not limited to, grouped mailboxes, storage and maintenance facilities, recreational facilities, picnic

shelters, and gazebos, shall incorporate compatible materials and scale as the primary multifamily Buildings, except that flat and shed Roofs are prohibited.

- (ii) Rear walls of detached Garages and carports that back onto the Street shall be articulated through the use of Windows, trellises, or a variety of Roof planes.
- d) Scale and Massing. The following standards shall apply to Buildings with a Gross Floor Area greater than 50,000 square feet:
  - (i) Large Building masses shall be divided into Heights and sizes that relate to human scale by incorporating changes in Building mass or direction, sheltering Roofs, and a distinct pattern of divisions on surfaces, Windows, trees, or small-scale lighting.
  - (ii) Vertical Definition. The maximum length of any Building wall that is parallel with, and oriented toward, the Public Street is 100 feet without vertical definition. Vertical definition may be in the form of changes in color and materials, modulations of sufficient width and depth to define the vertical element or some combination of these techniques.
  - (iii) Horizontal Definition. All Buildings shall include design techniques that clearly define the Building's top, middle, and bottom, as follows:
    - (a) Top: shall include Sloped Roofs, strong eave lines, cornice treatments, horizontal trellises, sunshades, or other similar architectural features.
    - (b) Middle: shall include windows, balconies, material changes, railings, or similar architectural treatments.
    - (c) Bottom: shall include pedestrian-oriented storefronts, pedestrian-scale Building tails, awnings, arcades, "earth" materials including concrete, stone, stucco, or other similar architectural treatments.
- F. Dwelling, Single-Unit Detached. The following Use regulations apply:
  - 1) Use in the Innovation District. For each 10 acres of contiguous land in single ownership as of the effective date of this chapter, there may be only one lot subdivided and sold or utilized for a Single-Unit Detached Dwelling. The lot area of such lot shall be a minimum of one acre and a maximum of two acres. The owner shall designate the 10 acres to which is applied the one lot subdivision. The remainder of the 10 acres shall therewith not be capable of subdivision under this section either by the current or future owners.
- G. Hotel. The following Use regulations apply:
  - 1) A private lobby shall be included.
  - 2) Rooms shall be accessed from the interior of the Building, including from interior Courtyards, lobbies, or halls.
- H. Live-Work Unit. The following Use regulations apply:
  - 1) Residency. At least one full-time employee who shall also be a resident of the property shall work in the work portion of the Live-Work Unit.
  - 2) Multiple Live-Work Units. Where there are multiple Live-Work Units within a single Building, each unit shall be physically separated from other units and Uses within the Building, and access to

individual units shall be from a common Open Space, corridor, hallway, or other common access areas.

I. Manufactured Home Community. The following Use regulations apply:

- 1) All Manufactured Home Communities shall be required to obtain an operating permit from New Garden Township.
- 2) Location and Size.
  - a) Minimum net tract area: 10 acres
  - b) The location of all Manufactured Home Communities shall comply with the following minimum requirements:
    - (i) Free from adverse influence of swamps, marshes, garbage or rubbish disposal areas, or other potential breeding places for insects or rodents.
    - (ii) Not subject to flooding.
    - (iii) Not subject to hazards or nuisances such as excessive noise, vibration, smoke, toxic matter, radiation, or glare.
    - (iv) No manufactured home pad, surface building, or access road within a Manufactured Home Community (with the exception of the entrance road) shall be located within 25 feet of any public street
- 3) Manufactured Home Communities shall be maintained free of vegetative growth which is a nuisance or poisonous or which may harbor rodents, insects, or other pests in sufficient quantities as to be harmful to man.
- 4) Areas for nonresidential use.
  - a) No part of any Manufactured Home Community shall be used for non-residential purposes except such accessory uses that are required for direct servicing or recreation for the residents of the park and for the management and maintenance of the park.
  - b) If the landowner shall be in the business of selling or renting Manufactured Homes, such business shall be conducted in the interior of and not at the edge of the Manufactured Home Community.
- 5) Buffer strips and screening.
  - a) All Manufactured Home Communities shall be required to provide an attractive visual screen along the boundary of the Manufactured Home Community, as follows:
    - (i) Such screening shall consist of mixed evergreen plant material of varying species which shall provide year-round screening.
    - (ii) At the time of planting, enough evergreen material to visually screen the property shall be at least six feet in height (after planting). The remainder of plantings may be of varying lesser heights.
    - (iii) The plantings shall be maintained permanently and replaced within six (6) months in the event of death of any plant material. The plantings shall not be placed closer than 15 feet from any property line.
    - (iv) All existing deciduous and evergreen trees above two (2) inches in caliper and/or six (6) feet in height shall be preserved in the buffer areas, except where clearance is required to ensure sight distance.
- 6) On Site Landscaping.

- a) Deciduous trees of varying species shall be planted in the manufactured home community at the ratio of two per manufactured home. If the event that a substantial portion of the tract is wooded and a substantial number of trees remain after development, the governing body may modify this requirement. Shade trees shall be preferred.
  - b) Deciduous or evergreen shrubs of varying species shall be planted within the manufactured home community at a ratio of at least four per manufactured home.
  - c) Planting of landscape material shall be in accordance with a plan prepared by a registered landscape architect and shall be completed within a reasonable time period established by the Township. Failure to carry out the landscaping plan within such time shall warrant denial of the park's annual license.
- 7) Off-street parking.
- 8) Off-site common parking areas may be provided in lieu of on the required parking spaces each manufactured home lot, in which case parking shall be provided at the rate of two spaces for each manufactured home. On-street parking shall be prohibited on internal roads, and it shall be the duty of the owner or operator of the manufactured home community to enforce this provision. Where common parking areas are provided, they shall be located no greater than 150 feet from the manufactured home lots they are intended to serve.
  - 9) Additional off-street parking spaces for vehicles of nonresidents shall be provided at the rate of one space for each two units.
  - 10) Parking spaces shall not be within the required right-of-way of any street or accessway.
  - 11) Additional off-street parking spaces or areas for oversized vehicles of park residents shall be provided for in a common off-street parking area.
- 12) Common open space.
- a) At least 15% of the gross area of each manufactured home community, after subtraction of required buffer areas, shall be set aside as a common open space for the use and enjoyment of the residents of the manufactured home community. Such common open space shall be substantially free of structures except for those designed for recreational purposes. A minimum of 50% of the common open space shall be suitable for active recreation.
  - b) No more than half of the open space area may be comprised of floodplain and sloped areas more than 20%.
  - c) Side yards, rear yards, seepage beds, and drain fields (primary and backup), utility and maintenance easements, rights-of-way, buffer strips, and setback areas shall not be included for open space calculations.
  - d) At least 50% of the open space and recreation area shall be contiguous and at least 25% thereof shall be in an area not subject to flooding and shall be usable for active recreational purposes.
  - e) Recreation areas shall be accessible to all residents of the manufactured home community.
  - f) Open space and recreation areas shall be maintained by the manufactured home community operator.
  - g) All land set aside for open space shall be deed restricted, and so indicated on the plan of record, from further development and subdivision.

13) Refuse disposal.

- a) The Manufactured Home Community operator shall be responsible for the proper storage, collection, and disposal of refuse.
- b) All refuse shall be stored in fly tight, watertight, rodentproof containers, which shall be located not more than 200 feet from any mobile home space. Containers shall be provided in sufficient number and capacity to properly store all refuse.
- c) All refuse storage shall be completely screened from view from any public right-of-way and any contiguous residential use. Screening shall consist of evergreen planting or an architectural screen.

14) Exterior lighting.

- a) Each mobile home lot will be provided with a walkway light located between the mobile home and parking area.

15) Manufactured Home Communities shall be served by public sewer and water.

J. Mixed-Use Building. These Buildings shall comply with all standards for nonresidential Buildings plus the following Use regulations:

1) Uses permitted on the first floor:

- a) Civic and institutional Uses.
- b) Retail Uses.
- c) Services Uses.

2) Uses permitted on upper floor(s):

- a) Multi-Unit Dwelling
- b) Office Uses.

K. Short-Term Rental, Principal. The following Use regulations apply:

1) Permit Required.

- a) No Owner of any property in the Township shall operate a Short-Term Rental in the Township without obtaining a Residential Rental Occupancy Permit from the Zoning Officer. Operation of a Short-Term Rental without a permit is a violation of this Chapter. Permits may be transferable to any new Owner of the property provided an application with updated contact information is submitted to the Township and all prior violations of this Chapter have been remedied.
- b) The issuance of a Permit is not a warranty that the premise is lawful, safe, habitable, or in compliance with this Chapter.
- c) Additional Permit Application Requirement. In addition to the Residential Rental Occupancy Permit requirements, the Applicant must provide:
  - (i) The name, address and 24-hour telephone number of the designated Local Property Representative as required by **Subpart 3a** of this Part.
  - (ii) Copy of current Chester County Hotel Room Tax Certificate.
  - (iii) Copy of current Pennsylvania Sales and Use Tax Permit or signed attestation that a third party collects this on behalf of the Short-Term Rental Owner.
  - (iv) Signatures of the Owner and the designated Local Property Representative.

- (a) By signing the Short-Term Rental application, the Owner gives authorization to the Township to enter onto the property to inspect and ensure compliance with this Chapter and all applicable ordinances and regulations administered and enforced by the Township.
  - d) A separate Permit is required for each Dwelling Unit; for Two-Unit or Multi-Unit Dwellings, a separate Permit shall be required for each Dwelling Unit being rented as a Short-Term Rental.
- 2) Location.
  - a) No Short-Term Rental units shall be permitted at a Density exceeding six per square mile.
  - b) No Short-Term Rental units shall be within 1,000 feet of a Lot on which another Short-Term Rental is located.
- 3) Operating Standards.
  - a) Local Property Representative. The Landowner must designate a Local Property Representative who shall be available 24 hours per day, seven days per week, for the purpose of (1) responding within one hour to complaints regarding the condition, operation, or conduct of occupants of the short-term Rental, and (2) taking remedial action to resolve any such complaints. The name, address, and telephone contact number of the Landowner and the local property representative shall be kept on file at the Township. The failure to provide the contact information, failure to keep the contact information current, failure to respond in a timely manner to complaints, or the occurrence of repeated complaints may result in the suspension or revocation of approval and/or civil or criminal penalties.
  - b) Restrictions on Use. A renter may not Use a short-term Rental for a purpose not incidental to its Use for lodging or sleeping purposes. This restriction includes using the Rental for a wedding, banquet, reception, bachelor or bachelorette party, concert, fundraiser, sponsored event, or any similar group activity.
  - c) Parking. There will be no demand for parking beyond that which is normal to the current residential property Use and no unusual or excessive traffic to and from the Premises. Outdoor parking for overnight and day guests shall be limited to available parking areas on the Short-Term Rental property. Parking for Short-Term Rental guests shall not include spaces in any private, community, or on any lawns or vegetated areas. All off-Street Parking Spaces shall be properly marked to ensure guests are aware of the location of proper onsite parking.
  - d) Signage. No outdoor advertising Signs related to the Rental dwelling shall be allowed on the Site.
  - e) Overnight occupancy of Recreational Vehicles, camper Trailers, and tents at the property where the Short-Term Rental is located is prohibited. Outdoor overnight sleeping of occupants or guests of the Short-Term Rental is prohibited.
  - f) Insurance. The Landowner shall maintain on file at the Township an up-to-date certificate of insurance documenting that the dwelling is insured as a short-term or vacation Rental.
  - g) A Short-Term Rental shall not have any outside appearance indicating a change of Use.
  - h) Subleasing all or a portion of the Dwelling Unit is prohibited.
- L. Temporary Shelter Facility. The following Use regulations apply:

- 1) The Use shall only be operated by or in conjunction with a governmental, non-profit, welfare or charitable service.
- 2) The facility shall have staffing on-Site during all hours of operation.
- 3) New Temporary Shelter facilities shall not be located within 2,000 feet of another Temporary Shelter, Community Residence, Boardinghouse, Medical Clinic, Hospital, School, or Park.
- 4) The Temporary Shelter facility must be open to the individuals it serves for 24 hours per day, including the provision of an indoor waiting area for Use by individuals when a portion of the facility is not open for operation. Lodging must be provided on a reservation or referral basis so that clients will not be required or allowed to queue for services outdoors.
- 5) All functions associated with the Temporary Shelter facility, except for children’s play areas, outdoor recreation areas, and parking must take place within the Building housing the shelter.
- 6) Property shall be served by Public Water and Public Sewer.
- 7) Operators of Temporary Shelters shall comply with the following:
  - a) Annually submit to the Zoning Officer copies of the organization’s updated program description.
  - b) Annually submit updated listing of organization board members, staff, proprietors, and affiliated organizations.
  - c) When there are no changes since the previously filed documents, a statement to this effect is sufficient.
  - d) An annual review will occur at the anniversary of the date upon which approval was originally granted.

§ 200-406 Supplemental Use Regulations – Civic and Institutional Uses

- A. Cemetery. The following Use regulations apply:
  - 1) All burial plots or Structures shall be located at least 20 feet from any property line or Street Line.
  - 2) Assurances shall be provided that water supplies of surrounding properties will not be contaminated by burial activity within the proposed cemetery.
  - 3) No burial plots or facilities are permitted in Flood plain or Flood fringe areas.
- B. Hospital. The following Use regulations apply:
  - 1) The property shall front on an arterial Road or major collector roadway.
  - 2) Emergency entrances shall be located on a Building wall which faces away from adjoining residences or residential zones or is set back a minimum of 500 feet from the residences or residential zones.
  - 3) The institution shall submit a copy of its Emergency operations plan (EOP) to the Township Emergency Management Agency or Coordinator. The EOP shall include detailed information regarding solid, medical and Hazardous Materials and waste handling including a listing of all medical and Hazardous Materials and wastes used and generated on Site and evidence indicating the disposal of all materials and wastes will be accomplished in a manner that compiles with State and Federal regulations.
- C. Hospital, Small-Format. The following Use regulations apply:

- 1) The maximum Gross Floor Area of a Small-Format Hospital is 40,000 square feet.
- 2) The facility is permitted no more than 15 Emergency room bays and no more than 15 inpatient beds for medical-related Use 24 hours per day by individuals requiring diagnosis, treatment, or care for illness, injury, deformity, infirmity, abnormality, or disease.

D. Medical Marijuana Academic Research Center. The following Use regulations apply:

- 1) A Medical Marijuana academic clinical research center must provide proof of registration with the Department of Health or proof that registration has been sought and is pending approval, and at all times shall maintain a valid, accurate, and up-to-date registration with the Department of Health. Should registration be revoked or denied at any time, any Township approval will immediately become void.
- 2) A Medical Marijuana academic clinical research center shall at all times operate in compliance with Act 16 of 2016, 35 P.S. § 10231.101 et seq., as amended, and all Department of Health regulations pertaining to such facilities.
- 3) A Medical Marijuana academic clinical research center may only grow Medical Marijuana in an indoor, enclosed, and secure Building which includes electronic locking systems, electronic surveillance and other features required by the Department of Health.
- 4) A Medical Marijuana academic clinical research center must be located in a facility owned and used by an accredited medical school within this commonwealth that operates or partners with an acute care hospital licensed within this Commonwealth.

E. School, Pre-Kindergarten to High School. The following Use regulations apply:

- 1) The Applicant shall meet all requirements of the Commonwealth of Pennsylvania Code, Title 25, Chapter 171, Schools and State and Federal requirements for the Construction, remodeling or Alteration, or conversion of an existing property to an educational facility.

F. Stadium/Arena. The following Use regulations apply:

- 1) A minimum tract area of five acres shall be required.
- 2) The Stadium/Arena is to be a maximum size of 5,000 seats.
- 3) A traffic study encompassing both traffic flow during non-event days as well as a calculation of the projected traffic clog when an event occurs within the Stadium/Arena filled to capacity.
- 4) A lighting plan identifying lighting both during events and in non-event time.
- 5) A screening plan.
- 6) An environmental impact study.
- 7) Community impact study.
- 8) Historical resource impact analysis.
- 9) A Stadium/Arena shall have multiple public entrances, including one major entrance on the Façade designated by the Landowner as the front setback. Such entrances shall be well-marked to cue access and use through means of enhancement that may include but are not limited to Architectural, Landscape, or graphic treatments. Where possible, major entrances shall take advantage of prominent intersection locations.

- 10) A Stadium/Arena shall be served by public water and public sewer.
- 11) A Stadium/Arena shall have frontage along an arterial road.

§ 200-407 Supplemental Use Regulations – Agriculture, Recreation, and Open Space Uses

A. Campground. The following Use regulations apply:

- 1) All campsites shall be located at least 50 feet from any side or rear property line and at least 100 feet from any Public Street Line.
- 2) All outdoor play areas shall be set back 100 feet from any property line and screened from adjoining residentially zoned or utilized properties.
- 3) All campgrounds shall furnish centralized sanitary and garbage collection facilities that shall be set back a minimum of 100 feet from any property line. Such facilities shall be screened from adjoining residentially zoned or occupied properties.
- 4) Any accessory retail or service Commercial Uses shall be set back a minimum 100 feet from any property line. Such accessory Commercial Uses shall be solely designed and constructed to serve the campground's registered guests and their visitors. Any Parking Spaces provided for these Commercial Uses shall only have vehicular access from the campground's internal Road rather than the Public Street. All accessory Commercial Uses and related parking shall be screened from adjoining residentially zoned or occupied parcels.
- 5) All campgrounds containing more than 100 campsites shall have vehicular access to an arterial or collector Street.
- 6) A minimum of 20% of the gross area of the campground shall be devoted to active and passive recreational facilities, which shall not be located within 100 feet of any property line. Responsibility for maintenance of the recreation area shall be with the Landowner.
- 7) During operation, every campground shall have an office in which shall be located the Person responsible for operation of the campground.
- 8) All water facilities, sewage disposal systems, restrooms, Solid Waste disposal and vector control shall be approved and maintained in accordance with the requirements of the Pennsylvania Department of Environmental Protection, and/or New Garden Township

B. Community Garden. The following Use regulations apply:

- 1) Requirements for Food Production.
  - a) The Site shall have reliable and legal access to an onsite source of water. Use of water storage systems for non-potable Uses is permitted.
  - b) The Site shall be operated in a manner that prevents the drainage of water or chemicals onto any neighboring property.
  - c) Site operators shall ensure that soils are suitable for food production and shall obtain any permits for operation required by law.
  - d) Tools, supplies, and machinery shall be stored in an enclosed Structure or removed from the property daily. All chemicals and fuels shall be stored off the ground in an enclosed, locked Structure when the Site is unattended.

- e) The Site must be maintained using organic agricultural practices, including the Use of organic chemicals, when applicable. Use of Pesticides must be in accordance with the Pennsylvania Pesticide Control Act of 1973 (Act of Mar. 1, 1974, P.L. 90, No. 24).
  - f) At the end of the growing season (and no later than December 15 of each year), all plant material must be cut to no more than 6 inches in Height, unless there is an agricultural reason for keeping the plant materials uncut.
  - g) One identification Sign containing the name and phone number of the contact Person for the Site is required. The Sign shall be designed in accordance with [Article X, Signs](#), of this Chapter. The Sign shall be visible from the most active adjacent Street.
- 2) Operating Rules. Applicants must establish operating rules addressing the governance Structure of the Community Garden, hours of operation, maintenance, assignment of garden plots when applicable, and security requirements.
  - 3) Garden Coordinator. Applicants must identify a garden coordinator to manage the garden and act as the point of contact with the Township. The coordinator shall be an employee or volunteer of a Public entity, non-profit organization, or other community-based organization. Applicants must file the name and telephone number of the garden coordinator and a copy of the operating rules with the Zoning Officer.
- C. Firearms Target Range, Indoor. The following Use regulations apply:
- 1) Minimum Lot Area. Three acres.
  - 2) Location.
    - a) No part of a shooting range shall be located within 500 feet of any residential Structure. This includes the Safety Fan which is an area within the shooting range that is designed to contain projectiles fired from the shooting range.
    - b) Adjacent areas shall be predominantly undeveloped, and the range area shall be at least 200 feet from any property or Street Right-Of-Way line.
  - 3) Design Safety.
    - a) Range caution Signs with eight-inch tall, red letters on a white background shall be posted at a maximum of 100-foot intervals around the range perimeter. Signs shall read "SHOOTING RANGE AREA. KEEP OUT!"
    - b) All shooting range facilities, including parking, shall be set back a minimum of 100 feet from the property line and Street Right-Of-Way.
    - c) Sound abatement shields or barriers shall be installed on shooting ranges.
  - 4) Shooting Range Operations.
    - a) Shall not damage the health, safety or welfare of the Township or its residents and property Owners.
    - b) Shall comply with all applicable State and local laws, rules, and regulations regarding the discharge of a firearm.
    - c) Shall limit the storage of ammunition to only that utilized for each day's activity, and in no event shall ammunition remain on the property for greater than 24 hours. The storage of live ammunition may only occur indoors in an area secured from general access.

- d) Shall limit the number of active shooters to the number of firing points or stations identified on the development plan.
- e) Shall limit firing to the hours between two hours after dawn and one-hour preceding dusk.
- f) Alcoholic beverages are prohibited.
- g) Only targets mounted on target posts, or projectile targets, shall be permitted. No targets of any kind shall be set directly on the ground.
- h) Adult supervision shall be provided for children under 16 years of age.

D. Firearms Target Range, Outdoor. The following Use regulations apply:

- 1) Minimum Lot Area. 10 acres.
- 2) Location.
  - a) No part of a shooting range shall be located within 500 feet of any residential Structure. This includes the Safety Fan which is an area within the shooting range that is designed to contain projectiles fired from the shooting range.
  - b) Adjacent areas shall be predominantly undeveloped, and the range area shall be at least 200 feet from any property or Street Right-Of-Way line.
- 3) Design Safety.
  - a) A Safety Fan shall be provided for each firing range. The Safety Fan shall include the area necessary to contain all projectiles, including direct fire and ricochet. The Safety Fan configuration shall be based upon the trajectory of the bullet and the design effectiveness of Berms, overhead baffles, or other safety barriers to contain projectiles to the Safety Fan.
  - b) The entire firing range area, including the entire Safety Fan, shall be enclosed with a six-foot high non-climbable fence to prevent unauthorized entry into the area. Range caution Signs with eight-inch tall, red letters on a white background shall be posted at a maximum of 100-foot intervals around the range perimeter. Signs shall read "SHOOTING RANGE AREA. KEEP OUT!"
  - c) Range flags, which service as warning flags that indicate whether firing is underway or has ceased, shall be displayed during all shooting activities. Range flags shall be located in a manner visible from entrance drives, target areas, range floor, and the perimeter of the Safety Fan.
  - d) All surfaces located within the Safety Fan, including the backstop, overhead baffles, Berms, and range floor, shall be free of hardened surfaces, such as rocks or other ricochet-producing materials.
  - e) All shooting range facilities, including Buildings, parking, firing range, and Safety Fan shall be set back a minimum of 100 feet from the property line and Street Right-Of-Way.
  - f) Sound abatement shields or barriers shall be installed on shooting ranges.
  - g) An earthen background Berm shall be provided within 20 feet of the farthest target post to prevent wild or ricocheting bullets or wild or stray arrows. The Berm shall meet the following requirements.
    - (i) The earthen Berm shall have a Slope of not less than one vertical to two horizontal and shall extend at least eight feet above the ground level of the highest target.

- (ii) The crest of the earthen Berm at the eight-foot minimum Height limit shall be at least four feet in width as measured between the wall of the Berm facing the range and the opposite wall.
    - (iii) Earthen side Berms shall be provided immediately adjacent to the range and shall extend from the firing line to the background Berm.
  - h) The firing range shall be free of gravel and other hard surface materials and be adequately drained according to the stormwater management standards specified in **Chapter 170, Subdivision and Land Development Ordinance.**
- 4) Shooting Range Operations.
  - a) Shall not damage the health, safety or welfare of the Township or its residents and property Owners.
  - b) Shall comply with all applicable State and local laws, rules, and regulations regarding the discharge of a firearm.
  - c) Shall limit the storage of ammunition to only that utilized for each day's activity, and in no event shall ammunition remain on the property for greater than 24 hours. The storage of live ammunition may only occur indoors in an area secured from general access.
  - d) Shall limit the number of active shooters to the number of firing points or stations identified on the development plan.
  - e) Shall limit firing to the hours between two hours after dawn and one-hour preceding dusk.
  - f) Alcoholic beverages are prohibited.
  - g) Only targets mounted on target posts shall be permitted. No targets of any kind shall be set directly on the ground.
  - h) Adult supervision shall be provided for children under 16 years of age.
- E. Forestry Operation. The following Use regulations apply:
  - 1) To encourage maintenance and management of forested or wooded Open Space and promote the conduct of forestry as a Sound and economically viable use of forested land and forestry activities, including, but not limited to timber harvesting, and to be in compliance with the Pennsylvania Municipalities Planning Code, as amended, forestry shall be a permitted Use by right in all Zoning districts. The following standards apply to all timber harvesting within the Township where the value of trees, logs, or other timber products removed exceed \$1,000. These provisions do not apply to the cutting of trees for the personal use of the Landowner or for Pre-Commercial Timber Stand Improvement.
  - 2) Policy and Purpose. In order to conserve forested Open Space and the environmental and economic benefits they provide, is the policy of New Garden Township to encourage the Owners of forestland to continue to use their land for forestry purposes, including the long-term production of timber, recreation, wildlife, and amenity values. The timber harvesting regulations are intended to further this policy by promoting good forest stewardship, protecting the rights of adjoining Property Owners, minimizing the potential for adverse environmental impacts, and avoiding unreasonable and unnecessary restrictions on the right to practice forestry.
  - 3) Notification and Preparation of a Logging Plan.

- a) For all timber harvesting operations, the Landowner shall notify the Zoning Officer at least 10 Business Days before the operation commences and within 10 Business Days before the operation is complete. No timber harvesting shall occur until the notice has been provided. Notification shall be in writing and shall specify the land on which harvesting will occur, the expected size of the harvest area, and, as applicable, the anticipated starting or completion date of the operation.
- b) Every Landowner on whose land timber harvesting is to occur shall prepare a written logging plan in the form specified by this Chapter. No timber harvesting shall occur until the plan has been prepared. The provisions of the plan shall be followed throughout the operation. The plan shall be available at the harvest Site at all times during the operation and shall be provided to the Zoning Officer upon request.
- c) The Landowner and the operator shall be jointly and severally responsible for complying with the terms of the logging plan.
- d) Contents of the Logging Plan. As a minimum the logging plan shall include the following:
  - (i) The design, Construction, maintenance, and retirement of the access system, including haul Roads, skid Roads, skid trails, and landings;
  - (ii) The design, Construction, and maintenance of water control measures and Structures such as culverts, broad-based dips, filter strips, and water bars;
  - (iii) The design, Construction, and maintenance of Stream and wetland crossings; and
  - (iv) The general location of the proposed operation in relation to municipal and State highways, including any accesses to those highways.
  - (v) A sketch map or drawing containing the Site location and boundaries, including both the boundaries of the property on which the timber harvest will take place and the boundaries of the proposed harvest area within the property; significant topographic features related to potential environmental problems; location of all earth disturbance activities such as Roads, landings, and water control measures and Structures; location of all crossings of waters of the Commonwealth; and the general location of the proposed operation to municipal and state highways, including any accesses to those highways.
  - (vi) Documentation of compliance with the requirements of all applicable state regulations including, but not limited to, the following; erosion and sedimentation control regulation contained in Title 25 Pennsylvania Code, Chapter 102, promulgated pursuant to The Clean Streams Law (35 P.S. § 691.1 et seq.; and Stream crossing and Wetlands Protection regulations contained in Title 25 Pennsylvania Code, Chapter 105, promulgated pursuant to the Dam Safety and Encroachments Act (32 P.S. § 693.1 et seq.).
  - (vii) Any permits required by state laws and regulations shall be attached to and become part of the logging plan. An erosion and sedimentation pollution control plan that satisfies the requirements of Title 25 Pennsylvania Code, Chapter 102, shall also satisfy the requirements for the logging plan and associated map specified above, provided all information required is included or attached.
- 4) Forest Practices. The following requirements shall apply to all timber harvesting operations in the Township.

- a) Felling or skidding on or across any Public thoroughfare is prohibited without the express written consent of the Township or the Pennsylvania Department of Transportation, whichever is responsible for maintenance of the thoroughfare.
  - b) No tops or slash shall be left within 25 feet of any Public thoroughfare or private roadway providing access to adjoining residential property.
  - c) All tops and slash between 25 and 50 feet of any Public roadway or private roadway providing access to adjoining residential property or within fifty (50) feet of adjoining residential property shall be lopped to a maximum Height of four feet above ground.
  - d) No tops or slash shall be left on or across the boundary of any property adjoining the operation without the consent of the Owner thereof.
  - e) Litter resulting from a timber harvesting operation shall be removed from the Site before it is vacated by the operator.
- 5) Responsibility for Road Maintenance and Repair: Road Bonding. Pursuant to Title 75 of the Pennsylvania Consolidated Statutes, Chapter 49; and Title 67 Pennsylvania Code, Chapter 189, the Landowner and the operator shall be responsible for Repairing any damage to Township Roads caused by traffic associated with the timber harvesting operation to the extent the damage is in excess of that caused by normal traffic, and may be required to furnish a bond to guarantee the Repair of such damages.
  - 6) Enforcement. The Zoning Officer shall be the enforcement officer for the standards set forth herein.
  - 7) Inspections. The Zoning Officer may go upon the Site of any timber harvesting operation before, during, or after active logging to review the logging plan or any other required documents for compliance with the standards and inspect the operation for compliance with the logging plan and other on-Site requirements of these regulations.
  - 8) Violations Notices; Suspensions. Upon finding that a timber harvesting operation is in violation of any provision of these standards and regulations, the Zoning Officer shall issues the operator and the Landowner a written notice of violation describing each violation and specifying a date by which corrective action must be taken. The Zoning Officer may order the immediate suspension of any operation upon finding that corrective action has not been taken by the date specified in a notice violation; the operation is proceeding without a logging plan; or the operation is causing immediate harm to the environment. Suspension orders shall be in writing, shall be issued to the operator and the Owner, and shall remain in effect until, as determined by the Zoning Officer, the operation is brought into compliance with the regulations herein or other applicable statutes or regulations. The Landowner or the operator may addition an order or Decision of an enforcement officer with 30 days of issuance to the Township Board of Supervisors.
  - 9) Penalties. Any Landowner or operator who violates any provision of these regulations; refuses to allow the Zoning Officer access to a harvest Site pursuant to subparagraph g of this Subpart or who fails to comply with a notice of violation or suspension order issues under subparagraph h of this Subpart is guilty of a summary offense and upon conviction shall be subject to a fine of not less than \$100 nor more than \$500, plus costs, for each separate offense. Each day of continued violation of any provisions shall constitute a separate offense.

- F. Golf Course/Country Club. The following Use regulations apply:
- 1) In no case shall the golf course design permit or encourage a golf ball to be driven across any Building, Building Lot, Parking Lot, or Public Street, Access Drive, or Driveway.
  - 2) All golf course Buildings shall be set back 75 feet from any adjoining Roads and 100 feet from adjoining residential Structures or parcels.
  - 3) Golf courses may include commonly associated accessory uses and Structures, provided such uses are reasonably sized, and located to provide incidental service to the golf course employees and users.
  - 4) In addition to the Setback regulations of the district in which the use is located, the following Setback regulations shall be required:
    - a) Fairways, greens and driving ranges shall be set back a minimum of:
      - (i) 150 feet from any residential Structures. For undeveloped residential Lots Abutting the golf course, the 150 Setback shall be measured from the closest Setback Line of the Abutting property and common property line.
      - (ii) 50 feet from any nonresidential Lot line of an Abutting property or the existing Street Right-Of-Way line.
    - b) All accessory uses of the golf course shall be set back at least 100 feet from all Lot lines.
    - c) All golf course Buildings shall be set back 100 feet from any adjoining Roads and parcels.
- G. Medical Marijuana Grower/Processor. The following Use regulations apply:
- 1) Access. Ingress or egress shall be from an arterial or collector Street. A marginal access Street shall be provided if its use will reduce the number of curb cuts on the arterial or collector Street as determined by Township Board of Supervisors.
  - 2) Six-foot-high fences shall be placed around the perimeter of the Site inside of the Buffer zone.
  - 3) No storage may take place outside of the Building.
  - 4) The Medical Marijuana grower/processor must comply with the following criteria:
    - a) A Medical Marijuana grower/processor shall provide proof of registration with the Department of Health or proof that registration has been sought and is pending approval and at all times shall maintain a valid, accurate, and up-to-date registration with the Department of Health. Should registration be revoked or denied at any time, any Township approval shall immediately become void.
    - b) A Medical Marijuana grower/processor shall at all times operate in compliance with Act 16 of 2016, 35 P.S. § 10231.101 et seq., as amended, and all Department of Health regulations pertaining to such facilities.
    - c) A Medical Marijuana grower/processor shall only grow, store, harvest, or process Medical Marijuana in an indoor, enclosed, secure facility, which includes electronic locking systems, electronic surveillance and any other features required by the Department of Health.
    - d) A Medical Marijuana grower/processor shall only provide wholesale products to Medical Marijuana dispensaries. Retail sales and dispensing of Medical Marijuana and related products is prohibited at a Medical Marijuana grower/processor.

- e) A Medical Marijuana grower/processor shall submit to the Township and the Department of Health its system to track the plant waste resulting from the growth of Medical Marijuana or other disposal, including the name and address of any disposal service.

H. Park. The following Use regulations apply:

- 1) Hours of Operation. Park hours of operation shall be determined by Township Board of Supervisors and such hours of operation shall be conspicuously posted at Park entrances.
- 2) Site Design Components, Landscape, Furnishings, and Art. The Township shall review and approve the design of any fencing, Buildings, Structures, Historic and monument sites, playground equipment, athletic equipment, decorative fountains, human-made ponds and water features, and Signs within any park, prior to such items being installed.
- 3) Events. Park uses may be utilized to host temporary festivals, events, and farmers markets pursuant to [§200-414, Temporary Uses](#), of this Chapter.

#### § 200-408 Supplemental Use Regulations – Retail

A. Convenience Store. The following Use regulation applies:

- 1) No Convenience Store shall be located within 1,500 feet radii of another Convenience Store.

B. Medical Marijuana Dispensary. The following Use regulations apply:

- 1) A Medical Marijuana dispensary must be legally registered in the commonwealth and possess a current, valid Medical Marijuana permit from the Department of Health.
- 2) A Medical Marijuana dispensary may only dispense Medical Marijuana in an indoor, enclosed, permanent, and secure Building and shall not be located in a Trailer, cargo container, mobile or modular unit, mobile home, Recreational Vehicle or other Motor Vehicle.
- 3) A Medical Marijuana dispensary may not operate on the same Site as a facility used for growing and processing Medical Marijuana.
- 4) Medical Marijuana dispensaries shall have a single secure Public entrance and shall implement appropriate security measures to deter and prevent the theft of marijuana and unauthorized entrance into areas containing Medical Marijuana.
- 5) Permitted hours of operation of a dispensary shall be 8:00 AM to 8:00 PM EST (of the same calendar day).
- 6) A Medical Marijuana dispensary shall:
  - a) Not have a drive-through service;
  - b) Not have outdoor seating areas;
  - c) Not have outdoor vending machines;
  - d) Prohibit the administering of, or the consumption of, Medical Marijuana on the Premises; and
  - e) Not offer direct or home delivery service.
- 7) A Medical Marijuana dispensary may dispense only Medical Marijuana to certified patients and caregivers and shall comply with all lawful, applicable health regulations.
- 8) A Medical Marijuana dispensary may not be located within 1,000 feet of the property line of a School or a Child Day Care Use. This distance shall be measured in a straight line from the closest

exterior wall of the Building or portion thereof in which the business is conducted or proposed to be conducted to the closest property line of the protected use, regardless of the municipality in which it is located.

- 9) A Medical Marijuana dispensary shall be a minimum distance of one thousand 1,000 feet from the next nearest Medical Marijuana facility. This does not include complementing or supporting businesses covered by different definitions. This distance shall be measured in a straight line from the closest exterior walls of the Buildings or portions thereof in which the businesses are conducted or proposed to be conducted, regardless of the municipality in which they are located. This separation distance does not apply to the distance between the grower/processor or academic clinical research centers and the specific dispensary they serve or with which they partner.
- 10) Any Medical Marijuana facility lawfully operating shall not be rendered in violation of these provisions by the subsequent location of a School or Child Day Care Use.

C. Outdoor Sales Lot. The following Use regulation applies:

- 1) Outdoor Sales Lots are not permitted on a Corner Lot, except in the Industrial Districts.

#### § 200-409 Supplement Use Regulations – Service

A. Adult Establishment. The following Use regulations apply:

- 1) Proximity to Certain Uses. An Adult Establishment must be separated from the following uses by the distances stated below. These distances are measured as a straight line, without regard to intervening Structures or objects, from the closest exterior wall of the Structure in which is Use is located.
  - (i) 500 feet from a Library.
  - (ii) 600 feet from a Residential Use or Residential Zoning District.
  - (iii) 750 feet from a School.
  - (iv) 800 feet from an Assembly Use, Child Day Care, Park, or other Child-Oriented Business.
  - (v) 3,000 feet from another Adult Establishment.
- b) Where there is a conflict between the following Site Development regulations and those of the base Zoning district, the more restrictive regulation applies.
  - (i) The minimum Lot Area is 20,000 sq feet.
  - (ii) The minimum Lot Width is 100 feet.
  - (iii) The minimum Front Setback is 100 feet.
  - (iv) The minimum Secondary Street Setback is 100 feet.
  - (v) The minimum Side Setback is 30 feet.
  - (vi) The minimum Rear Setback is 30 feet.
  - (vii) The maximum Height of the Building is 35 feet.
  - (viii) The maximum Impervious Coverage is 20%.
- c) Buffers must be provided along all Lot Lines as follows:
  - (i) Filtering Buffers must be provided along Lot Lines fronting a Street.
  - (ii) Screening Buffers must be provided along all other Lot Lines.

- d) Hours of Operation. No Adult Establishment, other than an adult Motel, shall open to do business before 10:00 a.m., Monday through Saturday, prevailing time; and no Adult Establishment, other than an adult Motel, shall remain open after 10:00 p.m., Monday through Saturday, prevailing time. No Adult Establishment, other than an adult Motel, shall be open for business on any Sunday or on a legal holiday as set forth in the Act of May 31, 1893, P.L. 188, § 1, as amended, 44 P.S. § 11.
  - e) No material, merchandise, film, or service offered for sale, rent, lease, loan or for view shall be exhibited, displayed, or graphically represented outside of a Building or Structure or that can be seen from the exterior of the Building.
  - f) Any Building or Structure used and occupied as an adult regulated facility shall be Windowless or have an opaque covering over all Windows or doors of any area in which materials, merchandise, film, service, or entertainment are exhibited or displayed.
  - g) No Sign shall be erected upon the Premises depicting or giving a visual representation of the type of materials, merchandise, film, service, or entertainment offered therein.
  - h) Each and every entrance to the Structure shall be posted with a notice of at least four square feet that the Use is an adult regulated facility restricting Persons under the age of 18 from entrance.
  - i) Prohibited Activities. Any Use or activity prohibited by §5903 of the Pennsylvania Crimes Codes as amended and further defining the offense of obscenity, redefining obscene and further providing for injunctions. No unlawful sexual activity or conduct shall be performed or permitted.
  - j) No adult-related Use may change to another adult-related Use, except upon Special Exception approval.
  - k) The Use shall not create an enticement for minors because of its proximity to nearby Uses where minors may congregate.
  - l) No more than one adult-related Use may be located within one Building.
  - m) No Person shall operate an Adult Establishment without first obtaining a Zoning Permit or Certificate of Use as provided in this Part and all other applicable permits required by law. The permit expires after one year and a new application is required to renew the permit.
- B. Animal Boarding, Daycare, and Training. The following Use regulations apply:
- 1) All kennels shall be licensed by the Pennsylvania Department of Agriculture and shall be constructed and maintained in accordance with Pennsylvania's Dog Law, 3 P.S. § 459-101, et seq. The Applicant shall demonstrate compliance with all state requirements.
  - 2) Minimum Lot Area. Five acres.
  - 3) All animal boarding Buildings that are not completely enclosed, and any outdoor animal pens, stalls or Runways shall be located within the rear Yard and screened from adjoining properties and shall be a minimum of 200 feet from all property lines.
  - 4) All outdoor recreation areas shall be enclosed to prevent the escape of animals. All such enclosures shall be set back a minimum of 200 feet from all property lines.
  - 5) Sanitary disposal facilities shall be available to eliminate animal and food waste, used bedding, dead animals and debris, and to minimize vermin infestation, odors, and disease hazards.

- 6) The subject property shall be located no closer than 500 feet from the Residential Zoning Districts and/or property containing a Residential Use.
- 7) Yard areas or pens shall be fenced with wire mesh fencing and located at least 150 feet from any Lot Line.

C. Automobile Fueling and Limited Repair Service. The following Use regulations apply:

- 1) Proximity Restriction. No Automobile Fueling and Limited Repair Service Use shall be located within a 1,200 foot radii of another Automobile Fueling and Limited Repair Service Use.
- 2) Permitted Types of Repair Service. Repairs include minor engine Repairs and Repairs and replacement of cooling, electrical, fuel and exhaust systems, brake adjustments, relining and Repairs, wheel alignment and balancing, and Repair and replacement of shock absorbers. Engine Rebuilding, bodywork, and painting are not included in this definition.
- 3) Outdoor Storage. Disabled or inoperable Vehicles and those awaiting pick-up may be stored outdoors if all of the following occur:
  - 1) No more than four Vehicles are stored for no more than two days each.
  - 2) The storage area is located in the Rear Yard and screened from view of the front Lot line. The screening shall be a minimum of eight feet high and shall be a galvanized chain link fence with privacy slats.
  - 3) The storage area shall also be screened from adjacent uses through a continuous four-foot-wide opaque evergreen planting located on the Side and Rear Yard areas. The planting shall be a minimum of ten feet high at maturity.
  - 4) The Vehicles must be stored in a legitimate Parking Space, and not in the Public Right-Of-Way or in a part of the Lot not specifically designated as a Parking Space.
- 4) Outdoor Activities. All Repairs or washing activities must occur inside a Structure.

D. Automotive Repair Garage. The following Use regulations apply:

- 1) Such use shall not be located within 100 feet of any property located in a Residential Zoning District.
- 2) All Repair work shall be performed within an enclosed Building that has adequate ventilation and fire-Protection provisions.
- 3) All towed Vehicles shall be stored on the Premises, and no Vehicle shall be stored or dismantled on any Public Street.
- 4) Storage, handling, and disposal of Hazardous Materials, as defined by federal or state statute, shall comply with the current requirements of the Pennsylvania Department of Environmental Protection and the United States Environmental Protection Agency.
- 5) Property shall be served by Public Water and Public Sewer.
- 6) Storage of parts, dismantled Vehicles, and Vehicles or equipment awaiting Repair shall be kept in an enclosed Building or in an outdoor area that is screened by a six-foot-high Hedge or opaque fence.
- 7) A Site circulation plan shall be devised. The plan shall include the following information:
  - 1) Location and dimensions of parking, Landscaping areas and signage.

2) Description of internal circulation and external access.

E. Automobile, Truck, and Limousine Sales and Rental. The following Use regulations apply:

- 1) No such use shall be located within 50 feet of any Residential Zoning District boundary line.
- 2) No Vehicle or other merchandise displayed outdoors shall be closer than five feet to any property line, Buffer area, or Right-Of-Way line. No Vehicle shall be parked on adjacent property or in any Public Right-Of-Way, and adequate spacing of Vehicles and merchandise shall be maintained to allow access around Vehicles and merchandise.
- 3) The Site shall have Frontage on and direct vehicular access to an arterial or collector Street.
- 4) All Lots used for the outdoor display of automobiles shall have a completely enclosed Building on the same Lot, which has not less than 2,000 square feet of Gross Floor Area where all Repairs, servicing, sales, and customer car washing shall be performed.
- 5) Storage.
  - 1) Outdoor Vehicle storage shall be surfaced with an asphalt or cement binder pavement providing an all-weather, durable, and dustless surface and shall be Graded and drained to dispose of surface water accumulation by means of a positive stormwater drainage system.
  - 2) All permanent storage of material, merchandise, and equipment (except for Vehicles) shall be within the Principal Building.

F. Car Wash. A car wash, whether as a principal use or accessory to a Principal Building, shall be subject to the following Use regulations:

- 1) Property shall be served by Public Water and Public Sewer.
- 2) Notwithstanding the Setbacks of the controlling Zoning district(s), the following Setback requirements shall apply to Car Wash Uses:
  - 1) All Structures housing washing apparatuses shall be of masonry Construction and set back 50 feet from any Street Right-Of-Way line, 25 feet from any rear property line, and 20 feet from any side Lot line.
  - 2) No such Building shall be located closer than 100 feet to any Residential Zoning District.
  - 3) For accessory carwashes, all Structures and washing apparatuses shall be set back 20 feet back from the rear most portion of the primary Building.
- 3) Vehicle Stacking.
  - 1) For self-service car washes, each washing bay shall provide a minimum 100-foot-long on-Site stacking lane which precedes the washing process.
  - 2) For automatic and semi-automatic car washes, each bay shall provide a minimum 200-foot-long stacking lane which precedes the washing process.
  - 3) For full service each bay shall provide a minimum 300-foot-long stacking lane which precedes the washing process.
  - 4) Vehicle Stacking area(s) shall be designed and located so as not to intrude into the required front Yard area.
- 4) Access and Circulation.
  - 1) The subject property shall front on an arterial or collector Street.

- 2) A Site circulation plan shall be provided with information on the circulation and Stacking on the Site.
  - 3) Traffic flow and ingress-egress shall not cause traffic hazards on adjacent Streets.
  - 4) On-Lot traffic circulation channels and parking areas shall be clearly marked.
  - 5) Environmental Controls.
    - 1) Car washes shall include a water reclamation system for the purpose of recycling water to the maximum degree possible given the equipment to be used in conducting car wash activities.
    - 2) Filtration of wastewater shall be conducted before discharge to a sanitary sewer system.
    - 3) A National Pollutant Discharge Elimination System (NPDES) permit from the Pennsylvania Department of Environmental Protection is required to discharge wastewater directly into a surface water body or to a storm sewer that discharges to a surface water body.
    - 4) Residual sludge shall be disposed of in accordance with the Pennsylvania Department of Environmental Protection requirements and standards.
    - 5) For full-service car washes, a post-washing drying area shall be provided for no less than six (6) Vehicles per washing lane
  - 6) Parking. No off-Street parking shall be located with a Car Wash as an Accessory Use.
- G. Day Care, Adult. The following Use regulations apply:
- 1) The facility shall be licensed and operated through the Pennsylvania Department of Aging in accordance with the Pennsylvania Code, Title 6, Chapter 11 as revised and amended. Proof of compliance with the above-referenced sections shall be provided.
  - 2) Adult passive recreation areas shall be provided as follows:
    - 1) Off-Street parking compounds shall not be used as outdoor play areas
    - 2) Outdoor passive recreation areas shall not be located in the front Yard.
    - 3) Outdoor play areas shall be completely enclosed by a six-foot-high fence and screened from adjoining residentially zoned properties. Any vegetative materials located within the outdoor play area shall be a nonharmful type (poisonous, thorny, allergenic, etc.).
    - 4) All outdoor play areas must provide a means of shade, such as shade trees or pavilions.
  - 3) Enrollment shall be defined as the largest number of adults under supervision at any one time during a seven-day period.
  - 4) Passenger drop-off and pickup areas shall be provided on-Site and arranged so that the passengers do not have to cross traffic on or adjacent to the Site.
  - 5) Property shall be served by Public Water and Public Sewer.
- H. Day Care, Child. The following Use regulations apply:
- 1) Facility operators shall be responsible for meeting all State and Federal licensing and registrations requirements and shall provide proof of compliance with the Commonwealth of Pennsylvania Code, Title 55, Chapter 3270, Child Day Care Centers.
  - 2) Play Areas. Indoor and outdoor play areas shall be provided for child day care center in accordance with State requirements and the following local requirements.
    - 1) Off-Street parking compounds shall not be used as outdoor play areas.

- 2) Outdoor play areas shall not be located in the front Yard.
  - 3) Outdoor play areas shall be set back from all property lines a minimum of 30 feet.
  - 4) Outdoor play areas shall be completely enclosed by a six-foot high fence and screened from adjoining residentially-zoned properties. Any vegetative materials located within the outdoor play area shall be a nonharmful type (poisonous, thorny, allergenic, etc.).
  - 5) All outdoor play areas must provide a means of shade, such as shade trees or pavilions.
- 3) Enrollment shall be defined as the largest number of children and/or older adults under supervision at any one time during a seven-day period.
  - 4) Passenger drop-off and pickup areas shall be provided on-Site and arranged so that the passengers do not have to cross traffic on or adjacent to the Site.
  - 5) Property shall be served by Public Water and Public Sewer.
- I. Drive Through Only Facility. The following Use regulations apply:
- 1) No indoor or outdoor seating is permitted.
  - 2) No Electric Vehicle charging stations are permitted.
  - 3) No more than one drive through only facility may be permitted per Lot.
  - 4) No more than one drive-through lane may be permitted per serving Window or counter.
  - 5) Site Access.
    - a) The number of Access Drives into a Site shall be minimized to reduce conflicts between turning Vehicles and other users of the Street, reduce curb cuts and interruptions to sidewalks or Shared Use Pathways.
    - b) Vehicle queuing lanes shall be separated from all Aisles, shall not result in additional curb cuts along the same Street Frontage and shall not have direct ingress and egress from any Street.
    - c) Vehicle queuing lanes shall not be directly accessible from a Street.
    - d) Vehicle queuing lanes shall not obstruct or interfere with Parking Spaces, pedestrian Aisles or walkways and loading or service areas.
- J. Firearm Establishment. The following Use regulations apply:
- 1) The Lot Line for such a Use must be located at least 500 feet measured in a straight line, without regard to intervening Structures or objects, from the nearest Lot Line of a Lot with any of the following Uses:
    - 1) School
    - 2) Park
    - 3) Neighborhood Service
    - 4) Neighborhood or General Assembly
    - 5) Community Residence
    - 6) Residential Uses
  - 2) A working alarm system shall be installed in the business.
- K. Funeral Home. The following Use regulations apply:
- 1) The minimum Site area shall be one acre.

- 2) The Site shall have Frontage on and direct vehicular access to an Arterial Street or Collector Street.
- 3) Adequate area shall be provided on the Site for Vehicles to form a line and queue on the property.
- 4) Entrances, exits, and waiting lanes shall be adequately indicated by pavement markings.

L. Self-Storage Facility. The following Use regulations apply:

- 1) Minimum Lot area shall be not less than one acre.
- 2) At least 40 feet of clear, unobstructed Driveway depth will be provided from the Road to the primary access gate or principal entry point of the facility.
- 3) Interior drive Aisle widths shall be not be less than 25 feet.
- 4) Buildings shall be designed and located so that overhead do not face Public Right-Of-Way. This provision does not apply to overhead doors that are within an enclosed self-storage Building and that are visible only through Windows of the Building.
- 5) No door openings for any storage unit shall be visible at ground level from any residentially zoned property.
- 6) All fences or walls visible from the Public Right-Of-Way shall be constructed of decorative Building materials such as slump stone masonry, concrete block, wrought iron, or other similar materials.
- 7) Boats, campers, Recreational Vehicles, and travel Trailers may be stored outside of an enclosed Building, but only in an area designated for such outside storage on an approved Site plan and not visible from the Public Right-Of-Way or adjacent property when viewed from the ground level.
- 8) The following uses are prohibited and all Self-Storage Facilities' Rental and/or use contracts shall specifically prohibit the same:
  - 1) Residential use and/or occupancy.
  - 2) Bulk storage of flammable, combustible, explosive, or Hazardous Materials. Nothing in this Section is meant to prohibit the storage of Motor Vehicles, motor craft, or equipment that contain a normal supply of such fuels for their operations.
  - 3) Repair, Construction, reconstruction, or fabrication of any item, including but not limited to, any boats, engines, Motor Vehicles, lawn mowers, appliances, bicycles, or furniture.
  - 4) Auctions, except as provided for the in Self-Service Storage Facilities Act (Act of Dec. 20, 1982, P.L. 1404, No. 325), Commercial wholesale or retail sales not related to the storage activity on the Premises or Garage sales. Retail sales of supplies associated with the Rental of storage units and/or Rental of Vehicles shall be permitted, such as boxes, packing tape, locks, and similar items.
  - 5) The operation of power tools, spray-painting equipment, compressors, welding equipment, kilns, or other similar tools or equipment.
  - 6) Any business activity within the storage units.
- 9) On-Site management shall be provided for a minimum of 20 hours per week, during the hours of 8:00 AM and 7:00 PM. Contact information for management during the remaining hours of the day shall be prominently posted on the Premises.
- 10) The Use shall not be located within three miles of another storage facility use.

M. Self-Storage Facility, Indoor, Climate-Controlled. The following Use regulations apply:

- 1) For Building conversions, the following apply:
  - 1) The indoor storage facility and any new Additions thereto must have the appearance of an office Building but do not have to be designed to look the same as the existing Building.
  - 2) Garage type door entries shall not be placed on the front Façade area of the Building.
- 2) No outside storage shall be permitted on Site.
- 3) No overnight Truck parking shall be allowed on the Site.
- 4) No outdoor display of retail sales shall be permitted.
- 5) Access to all individual storage units shall be through the interior of the Building only.
- 6) An Indoor, Climate-controlled, Self-storage Facility may not be located within three miles of another storage facility.
- 7) The following uses are prohibited and all Indoor, Climate-controlled, Self-storage Facility Rental and/or use contracts shall specifically prohibit the same:
  - 1) Residential use and/or occupancy.
  - 2) Bulk storage of flammable, combustible, explosive, or Hazardous Materials. Nothing in this Section is meant to prohibit the storage of Motor Vehicles, motor craft, or equipment that contains a normal supply of such fuels for their operation.
  - 3) Repair, Construction, reconstruction, or fabrication of any item, including but not limited to, any boats, engines, Motor Vehicles, lawn mowers, appliances, bicycles, or furniture.
  - 4) Auctions, except as provided for in the Self-Service Storage Facilities Act (Act of Dec. 20, 1982, P.L. 1404, No. 325), Commercial wholesale or retail sales not related to the storage activity on the Premises or Garage sales. Retail sales of supplies associated with the Rental of storage units and/or Rental of Vehicles shall be permitted, such as boxes, packing tape, locks, and similar items.
  - 5) The operation of power tools, spray-painting equipment, compressors, welding equipment, kilns, or other similar tools or equipment.
  - 6) Any business activity within the storage units.
- 8) On-Site management shall be provided for a minimum of 20 hours per week, during the hours of 8:00 AM and 7:00 PM. Contact information for management during the remaining hours of the day shall be prominently posted on the Premises.
- 9) The Use shall not be located within three miles of another storage facility use.

N. Tattoo/Piercing Parlor. The following Use regulations apply:

- 1) Proximity to Certain Uses. No Building or Premises shall be used, and no Building shall be erected or altered, if any part of such Building or Premises is situated on any part of a Lot within a 250 foot radius in any direction of any Building or Structure used for, or upon which is located any Building or Structure used for any Residential Use; Assembly Use, Medical Clinic, Hospital, School, facility attended by Persons under the age of 18 (including but not limited to school programs, children's museums, camps, and athletic leagues), or Park.

O. Treatment Facility. The following Use regulations apply:

- 1) For any Building (or portion thereof) which is proposed to contain a treatment facility, the Lot upon which such Building (or portion thereof) sits shall not be located closer than 500 feet (or the then-current Pennsylvania statutory- provided distance, whichever is greater) to a Lot utilized for an existing school, Public playground, Public park, residential housing area, residential Lot, single-family dwelling, child care facility, church, meeting house or other actual place of regularly scheduled religious worship established prior to the proposed methadone treatment.
- 2) Each Building or portion thereof proposed for use as a treatment facility shall have a separate and distinct entrance utilized solely for direct entrance into the methadone treatment facility. Access to the methadone treatment facility shall not be permitted via a shared Building entrance or from a shared interior corridor within the Building in which it is located.

### § 200-410 Supplemental Use Regulations – Employment

Section reserved for future use.

### § 200-411 Supplemental Use Regulations – Infrastructure

#### A. Aviation.

- 1) Airport. The following Use regulations apply:
  - a) All facilities shall be designed and operated in strict compliance with all applicable State and Federal laws and regulations.
  - b) The Applicant shall furnish evidence of the obtainment of a license from the Pennsylvania Department of Transportation, Bureau of Aviation, prior to the approval of the Conditional Use application.
  - c) No part of the take-off/landing strip and/or pad shall be located nearer than 1,500 feet from any property line.
- 2) Heliport/Helistop. The following Use regulations apply:
  - a) A Heliport may be permitted as a Conditional Use as an accessory to Hospitals or nursing homes for the movement of Emergency medical cases.
  - b) A Heliport may be permitted as a Conditional Use accessory to other Nonresidential Uses provided Board of Supervisors is satisfied that all the following conditions are met:
    - (i) The Heliport can be safely operated.
    - (ii) The Heliport would be a valuable adjunct to the business of the Principal Use.
    - (iii) The Heliport would not adversely affect the peace, privacy, and general welfare of the occupants of any residences in the vicinity.
  - c) Heliports must be constructed and installed to meet the requirements of the Building Officials Conference of America Basic Fire Prevention Code.
  - d) Heliports must be approved by the Bureau of Aviation of the Commonwealth of Pennsylvania prior to commencement of operation.
  - e) Prior to the approval of a Heliport, a plan of the property must be submitted to the Zoning Officer and the Site must be physically inspected by the Township Manager, the Fire Chief, and the Township Building Inspector.

- B. Parking, Principal. The following Use regulations apply:
- 1) Corner Lot. A Corner Lot shall not be used solely for parking.
  - 2) Adjacent Parking Facilities. Two principal parking facilities shall not be located directly adjacent to one another, except for a new Structured parking facility replacing an existing Parking Lot.
- C. Solar Energy System, Principal (PSES). The following Use regulations apply:
- 1) PSESs shall meet all the requirements listed for ASESs listed in Section [§200-413.R, Solar Energy System, Accessory](#), of this Chapter.
  - 2) A Noise study shall be performed and included in the application. The Noise study shall be performed by an independent Noise study expert and paid for by the Applicant. Noise from a PSES shall not exceed 50 dBA, as measured at the property line.
  - 3) The PSES Owner and/or operator shall maintain a phone number and identify a Person responsible for the Public to contact with inquiries and complaints throughout the life of the project and provide this number and name to the Township. The PSES Owner and/or operator shall make reasonable efforts to respond to the Public's inquiries and complaints.
  - 4) Decommissioning.
    - a) The PSES Owner and/or operator is required to notify the Township immediately upon cessation or Abandonment of the operation. The PSES shall be presumed to be discontinued or abandoned if no electricity is generated by such system for a period of 12 continuous months.
    - b) The PSES Owner and/or operator shall then have 12 months in which to dismantle and remove the PSES including all solar Related Equipment or appurtenances related thereto, including but not limited to Buildings, cabling, electrical components, Roads, foundations and other associated facilities from the property. If the Owner fails to dismantle and/or remove the PSES within the established timeframes, the municipality shall complete the decommissioning at the Owner's expense with the financial security posted.
    - c) At the time of issuance of the permit for the Construction of the PSES, the Owner and/or operator shall provide financial security in the form and amount acceptable to the Township to secure the expense of dismantling and removing said PSES and restoration of the land to its original condition, including forestry plantings of the same type/variety and Density as the original. The financial security amount shall be based on a cost estimate provided by the Owner that is reviewed and approved by the Township Engineer.
  - 5) Ground Mounted Principal Solar Energy Systems.
    - a) Setbacks.
      - (i) A PSES shall comply with the Setbacks of the underlying Zoning districts for principal Structures, except the Setbacks shall be a minimum of fifty (50) feet when adjacent to a residential use or residential district.
      - (ii) The PSES shall be set back a minimum of 2,500 from a Historic Resource, Historic Structure, or Historic Site; and Important Bird Areas as identified by Pennsylvania Audubon and at least 500 feet from identified Wetlands.
    - b) Height. Ground mounted PSES shall not exceed 20 feet in Height.

- c) Impervious Coverage. The following components of a PSES shall be considered Impervious Coverage and calculated as part of the Impervious Coverage limitations for the underlying Zoning district:
  - (i) Foundation systems, typically consisting of driven piles or Monopoles or helical screws with or without small concrete collars.
  - (ii) All mechanical equipment of PSES including any Structure for batteries or storage cells.
  - (iii) Gravel or paved access Roads servicing the PSES.
- d) Security.
  - (i) All ground mounted PSES shall be completely enclosed by a minimum eight (8) foot high fence with a self-locking gate.
  - (ii) A clearly visible warning Sign shall be placed at the base of all pad-mounted transformers and substations and on the fence on the surrounding the PSES informing individuals of potential voltage hazards.
- e) Access.
  - (i) A minimum twenty 20-foot wide Cartway shall be provided between the solar arrays to allow access for maintenance Vehicles and Emergency management Vehicles including fire apparatus and Emergency Vehicles. Cartway width is the distance between the bottom edge of a solar panel to the top edge of the solar panel directly across from it.
  - (ii) The ground mounted PSES shall not be artificially lighted except to the extent required for safety or applicable federal, state, or local authority.
- 6) Roof and Wall Mounted Principal Solar Energy Systems.
  - a) For Roof and wall mounted systems, the PSES Owner and/or operator shall provide evidence that the plans comply with the PA Uniform Construction Code and that the Roof or wall is capable of holding the load imposed on the Structure.
  - b) PSES mounted on the Roof or wall of any Building shall be subject to the maximum Height regulations of the underlying Zoning district.
- D. Transportation and Utilities.
  - 1) Transit Bus Stops. The following Use regulations apply:
    - a) Bus stop infrastructure, including ADA loading pads, bus passenger benches, and bus shelters, as well as bus stop location Signs and bus stop passenger information Signs, shall be permitted by right in all Zoning districts and shall be considered an Accessory Use/Structure that can stand alone without the accompanying Principal Use.
    - b) Bus stop infrastructure shall be exempt from minimum Lot size, Open Space, Yards, and Setback requirements of the governing Zoning district(s).
    - c) The location and design of the bus stop infrastructure shall be reviewed and approved by the applicable transit agency and Township. The transit agency shall provide written documentation certifying that a location is an existing or potential future bus stop.
    - d) Whenever an ADA loading pad, bench for a bus stop, and/or bus shelter is provided, the applicable off-Street parking requirements for the Lot's Principal Use may be reduced by one or more vehicular Parking Space(s) for each bus stop location.

- e) Bus stop location Signs and bus stop passenger information Signs installed and maintained by the transit agency shall be permitted within the Public Right-Of-Way and on private property and shall be exempt from [Article X, Signs](#), of this Chapter.
  - 2) Public Utilities. Uses that include electric or gas services, sewage treatment, water treatment and storage, pumping stations, transmission and receiving stations, and energy conversion.
    - a) The total Lot coverage of all Buildings and Structures shall be not more than 30% of the area of the Lot.
    - b) All Buildings and Structures shall be set back from every adjacent property a minimum distance of 25 feet and, in addition, not closer than 50 feet from any adjacent residential property, except that any tower shall be set back a minimum distance of that equal to the Height of the tower from any adjacent residential property.
    - c) Transformers shall be installed pursuant to applicable Building and Fire Codes.
    - d) Any electric or other Utility lines between the infrastructure and the Street shall be underground.
    - e) The infrastructure shall be suitably screened from any adjacent residential property by both a solid fence and an outside perimeter evergreen planting screen. Fence screening shall be a minimum of eight feet high and shall be a galvanized chain link fence with privacy slats. Evergreen screening shall be continuous four-foot-wide planting that shall be a minimum of 10 feet high at maturity.
    - f) The Zoning Officer shall provide the Township's Chief of Police, Township Engineer, and Township Fire Chief or their respective designees the opportunity to provide input on applications for Transportation and Utilities and shall provide such input to the Township Planning Commission and Supervisors, which shall take such input into account in making a Decision about any Transportation and Utilities application.
- E. Wind Energy System, Principal. The following Use regulations apply:
- 1) Design and Installation.
    - a) Applications for PWES uses shall be subject to the requirements set forth below, as well as all other applicable state or federal regulations.
    - b) The layout, design, and installation of a PWES shall conform to applicable industry standards, including those of the American National Standards Institute (ANSI), Underwriters Laboratories (UL), Det Norske Veritas, Germanischer Lloyd Wind Energies, the American Society of Testing and Materials (ASTM), or other pertinent certifying organizations and comply with all applicable Building and electrical codes of the Township. The Manufacturer specifications shall be submitted as part of the application.
    - c) The Applicant shall provide sufficient documentation showing that the PWES shall comply with all applicable requirements of the Federal Aviation Administration (FAA) and the Pennsylvania Department of Transportation's (PennDOT) Bureau of Aviation (BOA).
    - d) The PWES shall provide the Township written confirmation that the Public Utility company to which the PWES shall be connected has been informed of the intent to install a grid connected system and approved of such connection.

- 2) Visual Appearance.
  - a) All on-Site Utility, transmission lines, and cables shall be placed underground.
  - b) The PWES shall be painted a non-reflective, flat color such as white, off white, or gray unless required to be colored differently from FAA or PennDOT Bureau of Aviation regulations.
  - c) The PWES shall not be artificially lighted, except to the extent require by the Federal Aviation Administration or other applicable authority.
  - d) The display of advertising is prohibited except for identification of the Manufacturer of the system, facility Owner and operator.
  - e) Clearing of natural vegetation shall be limited to that which is necessary for the Construction, operation, and maintenance of the PWES.
- 3) Warnings and Safety Measures.
  - a) A clearly visible warning Sign concerning voltage shall be placed at the base of all pad-mounted transformers and substations.
  - b) All access doors to a PWES including electrical equipment, out Buildings and all appurtenances thereto, shall be locked or fenced to prevent entry by non-authorized personnel.
  - c) PWES shall not be climbable up to 15 feet above ground surface or the climbing apparatus shall be fully contained and locked within the tower Structure
  - d) Visible, reflective, colored objects, such as flags, reflectors or tape shall be placed on the anchor points of guy wires and along the guy wires up to a Height of ten (10) feet from the ground.
- 4) The Applicant shall provide a copy of the project summary and Site plan to local Emergency services, including the Township Fire Chief.
- 5) The PWES facility Owner and/or operator shall abide by all applicable local, state and federal fire code and Emergency guidelines. The facility Owner and/or operator shall provide Emergency services with a response plan.
- 6) Dimensional Requirements.
  - a) Lot Size. The PWES shall be separated from each other by a minimum of 1.1 times the total Height of the highest Wind Turbine.
  - b) Setbacks.
    - (i) The PWES shall be set back from the nearest property line a distance of not less than the normal Setback requirements for the Zoning district or its total Height, whichever is greater.
    - (ii) The PWES shall be set back from a Building, on a non-participating Landowner's property, not less than 1.5 times its total Height measured from the center of the Wind Turbine base to the nearest point on the foundation of the occupied Building.
    - (iii) The PWES shall be set back from a Building on a participating Landowner's property, not less than its total Height measured from the center of the Wind Turbine base to the nearest point of foundation of the occupied Building. Any operator/occupied Building used in connection with the Development are exempt from this distance limit.

- (iv) The PWES shall be set back from the nearest Public Road Right-Of-Way a distance of not less than one and one-half times its total Height measured from the center of the Wind Turbine base to the nearest Right-Of-Way line of the Public Road.
  - (v) Each PWES shall be set back from above-ground electric power lines, Public telephone lines and television cable lines a distance of no less than 1.1 times its total Height. The Setback distance shall be measured from the center of the Wind Turbine generator base to the nearest point of such lines.
  - (vi) All PWES shall be Setback from any ridge a distance of not less than the Wind Turbine's total Height. For this provision, "ridge" shall be defined as the elongated crest or series of crests at the uppermost point of intersection between opposite Slopes of a mountain and including all land lying between such point and an elevation 250 feet below the elevation of such point.
  - (vii) The PWES shall be set back a minimum of 2,500 feet from a Historic Resource, Historic Structure, or Historic Site; and Important Bird Areas as identified by Pennsylvania Audubon and at 500 feet from identified Wetlands.
  - (viii) Each Wind Turbine shall be set back from the any Historic Structure, district, Site or resource listed in the state inventory of historic places maintained by the Pennsylvania Historical and Museum Commission a distance no less than two thousand five hundred (2,500) feet. The Setback distance shall be measured from the center of the Wind Turbine generator base to the nearest point on the foundation of an historic Building, Structure or resource, or the nearest property line of an historic district or Site.
- 7) Height.
- a) There shall be no specific Height limitation, so long as the total Height meets Sound and set-back requirements, except as imposed by FAA regulations.
  - b) The minimum Ground Clearance shall be thirty (30) feet.
- 8) A PWES shall not be located on a Lot of record containing Slopes equal to or exceeding 25% on 50% or more of the Lot of record. This standard shall apply to each Lot where a PWES extends across multiple Lots of record.
- 9) Operational Standards.
- a) Noise.
    - (i) Audible Sound from a PWES shall not exceed 55 dBA, as measured at the property line between participating and non-participating Landowners.
    - (ii) Noise limits may be exceeded during short-term events such as Utility outages and/or severe windstorms.
    - (iii) Methods for measuring and Reporting acoustic emissions from a PWES shall be equal to or exceed the minimum standards for precision described in American Wind Energy Association (AWEA) Standard 2.1 - 1989 titled Procedures for the Measurement and Reporting of Acoustic Emissions from Wind Turbine Generation Systems Volume I: First Tier, as amended.
  - b) A Wind Turbine shall not cause vibrations through the ground which are perceptible beyond the property line of the parcel on which it is located.

- c) Shadow Flicker.
- (i) The PWES shall not cause shadow flicker on any occupied Building on a non-participating Landowner's property.
  - (ii) The PWES shall be designed in such a manner as to minimize shadow flicker on a roadway.
  - (iii) The facility Owner and operator shall conduct, at the Applicant's expense, a modeling study demonstrating that shadow flicker shall not occur on any occupied Building on a non-participating property.
- d) Public Inquiries and Complaints.
- (i) The PWES facility Owner and/or operator shall maintain a phone number that is posted on-Site of the PWES facility and identify a responsible Person for the Public to contact with inquiries and complaints throughout the life of the project.
  - (ii) The PWES facility Owner and/or operator shall respond to the Public's inquiries and complaints.
  - (iii) The PWES facility Owner and/or operator shall maintain a current general liability policy covering bodily injury and property damage with limits of at least \$1 million per occurrence and \$1 million in the aggregate. A certificate of insurance shall be made available to the Township upon request.
- e) Decommissioning.
- (i) The PWES facility Owner and/or operator shall, at his expense, complete decommissioning of the PWES and all related improvements within 12 months of the date when the use of the particular a PWES has been discontinued or abandoned by the facility Owner and/or operator, or upon termination of the useful life of same. The PWES shall be presumed to be discontinued or abandoned if no electricity is generated by such a PWES for a continuous period of 12 months.
  - (ii) Decommissioning shall include removal of Wind Turbines, Buildings, cabling, electrical components, Roads, foundations to a depth of 36 inches, and any other associated facilities.
  - (iii) Disturbed earth shall be Graded and re-seeded, unless the Landowner requests in writing that the access Roads or other land surface areas not be restored.
  - (iv) An independent and certified Registered Design Professional shall be retained to estimate the cost of decommissioning without regard to salvage value of the equipment. Said estimates shall be submitted to Township after the first year of operation and every fifth year thereafter.
  - (v) The PWES facility Owner and/or operator shall post and maintain decommissioning funds in an amount of one hundred 110 of the identified decommissioning costs, as adjusted over time. The decommissioning funds shall be posted and maintained with a bonding company or Federal or Commonwealth chartered lending institution chosen by the facility Owner or operator and participating Landowner posting the financial security, provided that the bonding company or lending institution is authorized to conduct business within the Commonwealth and is approved by the Township.

- (vi) Decommissioning funds may be in form of a performance bond, surety bond, letter of credit, corporate guarantee or other form of financial assurance as may be acceptable to the Township.
  - (vii) If the PWES facility Owner and/or operator fails to complete decommissioning within the period prescribed above, then the Landowner shall have six months to complete the decommissioning.
  - (viii) If the PWES facility Owner and/or operator, nor the Landowner complete decommissioning within the periods described above, then the Township may take such measures as necessary to complete decommissioning. The entry into and submission of evidence of a participating Landowner agreement to the Township shall constitute agreement and consent of the parties to the agreement, their respective heirs, successors and assigns that the Township may take such action as necessary to implement the decommissioning plan.
  - (ix) The escrow agent shall release the decommissioning funds when the facility Owner or operator has demonstrated and the Township concurs that decommissioning has been satisfactorily completed, or upon written approval of the Township in order to implement the decommissioning plan.
- 10) Application Requirements. A Conditional Use application for a PWES shall include the following:
- a) A narrative describing the proposed PWES, including an overview of the project, the project location, the approximate generating capacity of the PWES, the approximate number, representative types and Height or range of heights of the PWES to be constructed including their generating capacity, dimensions and respective Manufacturers, and a description of ancillary facilities.
  - b) An affidavit or similar evidence of agreement between the Landowner and the PWES facility Owner and/or operator demonstrating that the Owner and/or operator has the permission of the property Owner to apply for necessary permits for Construction and the operation of the PWES and setting forth the Applicant's and property Owner's name, address and phone number.
  - c) Identification of the properties on which the proposed a PWES shall be located, and the properties adjacent to where the PWES shall be located.
  - d) A Site plan showing the planned location of each PWES, property lines, Setback Lines, access Road and turnout locations, substation(s), electrical cabling from the PWES to the substation(s), ancillary equipment, Buildings, and Structures, including permanent meteorological towers, associated transmission lines and layout of all Structures within the geographical boundaries of any applicable Setback.
  - e) A Noise study in accordance with **Subparagraph 9.a** above.
  - f) A shadow flicker study in accordance with **Subparagraph 9.c** above.
  - g) A Decommissioning Plan sufficient to demonstrate compliance with **Subparagraph 9.e** above.
  - h) A wind resource study shall be submitted documenting wind resources at the Site. The study shall include but is not limited to data showing average wind speeds capable of generating electricity and the available capacity to transmit the electricity into the power grid.

- i) Other relevant studies, Reports, certifications and approvals as required by this Ordinance or as may be requested by the Township to ensure compliance with this Ordinance.
- j) Throughout the permit process, the Applicant shall promptly notify the Township of any changes to the information contained in the Conditional Use/special exception permit application. Changes to the pending application that do not materially alter the initial Site plan may be adopted without a renewed Public Hearing.

F. Wireless Communications Facility (WCF). The following Use regulations apply:

- 1) Purpose. The purpose of these standards is to govern the use, Construction, and location of Wireless communications facilities in recognition of the nature of Wireless communications systems and the Federal Telecommunications Act. These regulations are intended to:
  - a) Accommodate the need for Wireless communications facilities so as to ensure the provision for necessary services while preserving the character of the Township;
  - b) Minimize the adverse visual effects and the number of such facilities through proper design, locating, screening, material, color, and finish and by requiring that competing providers of Wireless communications services collocate their telecommunication and Wireless communications Antennas and related facilities;
  - c) Address new Wireless technologies, including, but not limited to, distributed Antenna systems, data collection units, and other WCFs;
  - d) Ensure the structural integrity of Wireless communications facilities through compliance with applicable industry standards and regulations; and
  - e) Promote the health, safety, and welfare of the residents and property owners within New Garden Township.
- 2) Regulations Applicable to All Wireless Communications Facilities. The following regulations shall apply to all Wireless Communications Facilities (WCFs).
  - a) Wireless communications facilities shall be permitted within New Garden Township as follows:
    - (i) Collocated Wireless Communications Facilities shall be permitted as a use by Special Exception in all Zoning Districts provided that the proposed Wireless Communications Facilities comply with the applicable requirements of this Part and generally applicable permitting as required by the Township Municipal Code.
    - (ii) Tower-Based Wireless Communications Facilities shall be permitted as a use by Special Exception within the AP, EP, and MU Zoning Districts and along Gap Newport Pike, Newark Road, Baltimore Pike, Penn Green Road, Starr Road, and U.S. Route 1, regardless of the underlying Zoning district, provided that the proposed Wireless Communications Facilities comply with the applicable requirements of this Section and generally applicable permitting as required by the Township Municipal Code of Ordinances.
    - (iii) Small Wireless Communications Facilities inside the Public Rights-of-way shall be permitted as a use by Right in all Zoning Districts, provided that the proposed Wireless Communications Facilities comply with the applicable requirements of this Part and generally applicable permitting as required by the Township Municipal Code.

- (iv) Small Wireless Communications Facilities outside the Public Rights-of-way shall be permitted as a use by Right in all Township Zoning districts except in the Conservation and Residential Zoning Districts, subject to the requirements of this Part and generally applicable permitting as required by the Township Municipal Code.
- b) Standard of Care. All WCFs shall meet all applicable standards and provisions of the FAA, the FCC, and any other agency of the state or federal government with the authority to regulate Wireless communications facilities, the latest National Electrical Safety Code (NESC), American National Standards Institute (ANSI) Code, and the structural standards of the American Association of State Highway and Transportation Officials or any other industry standard applicable to the Structure. In case of conflict, the most stringent requirements shall prevail. All necessary certifications shall be obtained by the WCF Applicant and provided to the Township.
- c) Engineer Signature. All plans and drawings included in an application for a WCF shall contain a seal and signature of a Professional Engineer licensed in the Commonwealth of Pennsylvania.
- d) Eligible Facilities Requests.
  - (i) WCF Applicants proposing the Modification or Replacement of an existing WCF shall be required only to obtain a Building permit from the Township Zoning Officer. In order to be considered for such a permit, the WCF Applicant must submit a permit application to the Township Zoning Officer in accordance with applicable permit policies and procedures. Such permit application shall clearly state that the proposed Modification or Replacement constitutes an Eligible Facilities Request pursuant to the requirements of 47 CFR §1.6100. The permit application shall clearly detail all dimensional changes being made to the WCF and Wireless Support Structure and certify that such changes are in compliance with the requirements of 47 CFR §1.6100.
  - (ii) Timing of Approval.
    - (a) Within 30 calendar days of receipt of an application for the Modification or Replacement of an existing WCF, the Township Zoning Officer shall notify the WCF Applicant in writing of any information that may be required to complete such application.
    - (b) Within 60 days of receipt of an application for the Modification or Replacement of an existing WCF, and subject to applicable tolling procedures as established by federal law, the Township Zoning Officer shall issue the required Building and Zoning Permits authorizing the Modification or Replacement.
- e) Substantial Change. Any Substantial Change to a WCF shall be treated as an application for a new WCF in accordance with the Township Municipal Code of Ordinances.
- f) Wind and Ice. All WCFs shall be designed to withstand the effects of wind gusts and ice to the standard designed by the American National Standards Institute as prepared by the engineering departments of the Electronics Industry Association and Telecommunications Industry Association (ANSI/TIA-222, as amended), or to the industry standard applicable to the Structure.

- g) Aviation Safety. All WCFs shall comply with all federal and state laws and regulations concerning aviation safety.
- h) Public Safety Communications. WCFs shall not interfere with Public safety communications or the reception of broadband, television, radio, or other communication services enjoyed by occupants of nearby properties.
- i) Radio Frequency Emissions. A WCF shall not, by itself or in conjunction with other WCFs, generate radio frequency emissions in excess of the standards and regulations of the FCC, including but not limited to, the FCC Office of Engineering Technology Bulletin 65 entitled "Evaluating Compliance with FCC Guidelines for Human Exposure to Radio Frequency Electromagnetic Fields," as amended. The WCF Applicant shall submit proof of compliance with all applicable standards relating to radio frequency emissions as part of any complete WCF application.
- j) Noise. WCFs shall be operated and maintained so as not to produce Noise in excess of applicable Noise standards under state law and the Township Municipal Code of Ordinances, except in Emergency situations requiring the use of a backup generator, where such Noise standards may be exceeded on a temporary basis only as permitted by the Township.
- k) Non-conforming Wireless Support Structures. WCFs shall be permitted to collocate upon existing non-conforming Wireless Support Structures. Collocation of WCFs upon existing Wireless Support Structures is encouraged even if the Wireless Support Structure is non-conforming as to use within a Zoning district.
- l) Permit Fees. The Township may assess appropriate and reasonable permit fees directly related to the Township's actual costs in reviewing and processing the application for approval of a WCF, as well as related inspection, monitoring, and related costs. Such permit fees shall be established by the Township fee schedule.
- m) Indemnification. Each Person that owns or operates a WCF shall, at its sole cost and expense, indemnify, defend and hold harmless the Township, its elected and appointed officials, employees, and agents, at all times against any and all claims for personal injury, including death, and property damage arising in whole or in part from, caused by or connected with any act or omission of the Person, its officers, agents, employees or contractors arising out of, but not limited to, the Construction, installation, operation, maintenance or removal of the WCF. Each Person that owns or operates a WCF shall defend any actions or proceedings against the Township in which it is claimed that personal injury, including death or property damage, was caused by the Construction, installation, operation, maintenance, or removal of a WCF. The obligation to indemnify, hold harmless, and defend shall include, but not be limited to, the obligation to pay judgments, injuries, liabilities, damages, reasonable attorneys' fees, reasonable expert fees, court costs, and all other costs of indemnification.
- n) Non-commercial Usage Exemption. Township residents utilizing satellite dishes, citizen and/or band radios, and Antennas for the purpose of maintaining television, phone, and/or internet connections at their residences shall be exempt from the regulations enumerated in this Section.

- o) Abandonment. In the event that the use of a WCF is to be discontinued, the Owner shall provide written notice to the Township of its intent to discontinue use and the date when the use shall be discontinued. A WCF not operated for a period of six months shall be considered abandoned. Discontinued or abandoned WCFs, or portions of WCFs, shall be removed as follows:
  - (i) All abandoned or unused WCFs and Accessory Equipment shall be removed within 90 days of the cessation of operations at the Site or receipt of notice that the WCF has been deemed abandoned by the Township unless a time extension is approved by the Township.
  - (ii) If the WCF or Accessory Equipment is not removed within 90 days of the cessation of operations at a Site or receipt of notice that the WCF has been deemed abandoned by the Township, or within any longer period approved by the Township, the WCF and/or associated facilities and equipment may be removed by the Township and the cost of removal assessed against the Owner of the WCF regardless of the Owner's or operator's intent to operate the WCF in the future.
- p) Maintenance. The following maintenance requirements shall apply:
  - (i) All WCFs shall be fully automated and unattended on a daily basis and shall be visited only for maintenance, repair, or replacement.
  - (ii) Such maintenance shall be performed to ensure the upkeep of the WCF in order to promote the safety and security of the Township's residents and in accordance with all applicable Township, state, and federal regulations
  - (iii) All maintenance activities shall utilize the best available technology for preventing failures and accidents.
- 3) Regulations Applicable to All Collocated Wireless Communications Facilities. The following regulations shall apply to all Collocated WCFs:
  - a) Small WCF Exemption. Collocated WCFs that meet the definition of a Small WCF shall be exempt from the requirements of this Section. Such Small WCFs shall be subject only to applicable permitting and the requirements of this Section.
  - b) Development Regulations.
    - (i) The total Height of any Collocated WCF and Wireless Support Structure shall not exceed 20 feet above the maximum Height permitted in the underlying Zoning district unless the WCF Applicant applies for, and subsequently obtains, a Variance.
    - (ii) In accordance with industry standards, all WCF Applicants must submit documentation to the Township Zoning Hearing Board justifying the total Height of the Collocated WCF. Such documentation shall be analyzed on an individual basis.
    - (iii) If the Applicant proposes to locate the Related Equipment in a separate Building, the Building shall comply with the minimum requirements for the applicable Zoning district, and Landscaping shall be required to screen as much of the equipment Building as possible. An evergreen screen shall surround the Site. The evergreen screen shall be a minimum Height of six feet at planting and shall not exceed ten (10) feet on center.

- c) Visual Appearance. Collocated WCFs shall employ Stealth Technology. All Collocated WCFs and Accessory Equipment shall be aesthetically and architecturally compatible with the surrounding environment and shall maximize the use of a like Facade to blend with the existing surroundings and neighboring Buildings to the greatest extent possible. The Township Zoning Hearing Board shall consider whether its Decision upon the subject application will promote the harmonious and orderly Development of the Zoning district involved; encourage compatibility with the character and type of Development existing in the area; benefit neighboring properties by preventing a negative impact on the aesthetic character of the community; preserve Woodlands and trees existing at the Site to the greatest possible extent; and encourage Sound engineering and Land Development design and Construction principles, practices and techniques.
- d) Prohibited on Certain Structures. No Collocated WCF shall be located on Residential Structures.
- e) Third-Party Wireless Support Structures. Where a Collocated WCF is proposed for Collocation on a Wireless Support Structure that is not owned by the WCF Applicant, the WCF Applicant shall present evidence to the Township Zoning Hearing Board that the Owner of the Wireless Support Structure has authorized the Construction of the proposed Collocated WCF.
- f) Historic Buildings. No Collocated WCF may be located within 100 feet of any property, or on a Building or Structure that is listed on either the National or Pennsylvania Registers of Historic Places, or eligible to be so listed, located within a historic district, or is included in the official Historic Structures list maintained by the Township.
- g) Retention of Experts. The Township may hire any consultant(s) and/or expert(s) necessary to assist the Township in reviewing and evaluating the application for approval of the WCF at its sole discretion and, once approved, in reviewing and evaluating any potential violations of the terms and conditions of these WCF provisions. The WCF Applicant and/or Owner of the WCF shall reimburse the Township for all costs of the Township's consultant(s) in providing expert evaluation and consultation in connection with these activities.
- h) Insurance. Each Person that owns or operates a Collocated WCF shall annually provide the Township with a certificate of insurance evidencing general liability coverage in the minimum amount of \$1,000,000 per occurrence and property damage coverage in the minimum amount of \$1,000,000 per occurrence covering the Collocated WCF.
- i) Timing of Approval.
  - (i) Within 30 calendar days of the date that an application for a Collocated WCF is filed with the Township Zoning Officer, the Township Zoning Officer shall notify the WCF Applicant in writing of any information that may be required to complete such application.
  - (ii) Within 90 days of receipt of an application for a Collocated WCF, and subject to applicable tolling procedures as established by federal law, the Township Zoning Hearing Board shall make a final Decision on whether to approve the application and shall notify the WCF Applicant in writing of such Decision.

- 4) Regulations Applicable to All Tower-Based Wireless Communications Facilities. The following regulations shall apply to all Tower-Based Wireless Communications Facilities.
- a) Small WCF Exemption. Tower-Based WCFs that meet the definition of a Small WCF shall be exempt from the requirements of this Section. Such Small WCFs shall be subject only to applicable permitting and the requirements of **Subsection 5, Regulations Applicable to Small Wireless Communications Facilities**, of this Part.
  - b) Special Exception Required. Tower-Based WCFs are permitted outside the Public Rights-of-way as a Special Exception and at a Height necessary to satisfy their function in the WCF Applicant's Wireless communications system, subject to the requirements of this Section.
    - (i) Upon submission of an application for a Tower-Based WCF and the scheduling of the Public Hearing upon the application, the WCF Applicant shall send via First Class Mail notice to all Owners of every property within 500 feet of the proposed facility, advising of the subject matter and date of such Hearing. Such notice shall be sent at least 10 days in advance of the scheduled Public Hearing. The WCF Applicant shall provide proof of the notification to the Zoning Hearing Board along with the list of return receipts received.
    - (ii) The Special Exception application shall include a Site plan, drawn to scale, showing property boundaries, power location, total Height of the Tower-Based WCF, guy wires and anchors, existing Structures, elevation drawings, typical design of proposed Structures, parking, fences, Landscaping and existing uses on adjacent properties.
    - (iii) The Special Exception application shall be accompanied by a description of the type and Manufacturer of the proposed transmission/radio equipment, the frequency range (megahertz band) assigned to the WCF Applicant, the power in watts at which the WCF Applicant transmits, and any relevant related tests conducted by the WCF Applicant in determining the need for the proposed Site and installation.
    - (iv) The Special Exception application shall include evidence that a significant gap in Wireless coverage or capacity exists in the applicable area and that the type of WCF being proposed is the least intrusive means by which to fill that gap in Wireless coverage. The existence or nonexistence of a gap in Wireless coverage shall be a factor in the Zoning Hearing Board's Decision on an application for approval of Tower-Based WCF.
    - (v) Where the Tower-Based WCF is located on a property that is not owned by the WCF Applicant, the Special Exception application shall include evidence to the Zoning Hearing Board that the Owner of the property has granted an Easement or other property Right, if necessary, for the proposed WCF and any vehicular access that will be provided to the facility.
    - (vi) The Special Exception application shall include a written certification by a structural engineer licensed in the Commonwealth of Pennsylvania of the proposed WCF's ability to meet the structural standards offered by either the Electronic Industries Association or the Telecommunication Industry Association and certify the proper Construction of the foundation and the erection of the Structure.

- (vii) The Special Exception application shall include evidence demonstrating that the proposed Tower-Based WCF cannot be accommodated on an existing Wireless Support Structure. The Zoning Hearing Board may deny an application to construct a new Tower-Based WCF if the WCF Applicant has not made a good faith effort to mount the Antenna(s) on an existing Wireless Support Structure. The WCF Applicant shall demonstrate that it contacted the Owners of all potentially feasible Structures, Buildings, and towers within a 1,000 foot radius of the Site proposed, sought permission to install an Antenna on those Structures, Buildings, and towers, and was denied for one of the following reasons:
  - (a) The proposed WCF would exceed the structural capacity of the existing Building, Structure, or tower, and its reinforcement cannot be accomplished at a reasonable cost.
  - (b) The WCF would cause radio frequency interference with other existing equipment for that existing Building, Structure, or tower, and the interference cannot be prevented at a reasonable cost.
  - (c) Such existing Buildings, Structures, or towers do not have adequate location, space, access, or Height to accommodate the proposed equipment or to allow it to perform its intended function.
  - (d) A Commercially reasonable agreement could not be reached with the Owner of such Building, Structure, or tower.
- (viii) The Special Exception application shall also be accompanied by documentation demonstrating that the proposed Tower-Based WCF complies with all applicable provisions of this Part.
- c) Development Regulations
  - (i) Tower-Based WCFs shall not be located in or within 75 feet of an area in which all utilities are located underground.
  - (ii) Sole use on a Lot. A Tower-Based WCF may be permitted as the sole use on a Lot, provided the Tower-Based WCF and underlying Lot comply with all applicable requirements of this Chapter.
  - (iii) Combined with Another Use. A Tower-Based WCF may be permitted on a property with an existing use, except residential, subject to the following conditions:
    - (iv) The existing use on the property may be any permitted use in the applicable district and need not be affiliated with the WCF.
    - (v) Minimum Lot Area. The minimum Lot shall comply with the requirements for the applicable Zoning district and shall be the area needed to accommodate the Tower-Based WCF and Accessory Equipment, any guy wires, the equipment Building, security fence, and applicable screening.
- d) Design Regulations
  - (i) Visual Appearance and Land Use Compatibility.

- (a) Tower-Based WCFs shall employ Stealth Technology which may include the Wireless Support Structure being painted a certain color as approved by Zoning Hearing Board or using a galvanized finish.
- (b) Tower-Based WCFs shall be designed in a manner that minimizes visual intrusiveness and environmental impacts to the maximum extent feasible. For example, Monopole designs are preferred over lattice designs.
- (c) The Zoning Hearing Board shall consider whether its Decision upon the subject application will promote the harmonious and orderly Development of the Zoning district involved; encourage compatibility with the character and type of Development existing in the area; prevent a negative impact on the aesthetic character of the community; preserve Woodlands and trees existing at the Site to the greatest possible extent; and encourage Sound engineering and Land Development design and Construction principles, practices and techniques.
- (ii) Anti-Climbing Device. If deemed necessary by the Zoning Hearing Board, a Tower-Based WCF shall be equipped with an anti-climbing device, as approved by the Manufacturer.
- (iii) Minimum Setbacks. The minimum distance between the base of a Tower-Based WCF and any adjoining property line or Street ROW line shall be equal to 100% of the Height of the Tower-Based WCF. The underlying Lot must be large enough to accommodate Related Equipment, stormwater runoff mechanisms, and all other features typically found within the immediate area of a telecommunications tower.
- (iv) Surrounding Environs.
  - (a) The WCF Applicant shall ensure that the existing vegetation, trees, and shrubs located within proximity to the WCF Structure shall be preserved to the maximum extent possible.
  - (b) The WCF Applicant shall submit a soil Report to Zoning Hearing Board complying with the standards of ANSI/TIA-222, as amended, to document and verify the design specifications of the foundation of the Tower-Based WCF and anchors for guy wires if used.
- (v) Fence. A security fence with a maximum Height of eight feet, with openings no greater than four inches, shall completely surround any Tower-Based WCF, as well as guy wires or any Building housing Accessory Equipment.
- (vi) Accessory Equipment.
  - (a) Ground-mounted Accessory Equipment associated or connected with a Tower-Based WCF shall not be located within 50 feet of a Lot in a residential use.
  - (b) Accessory Equipment associated with a Tower-Based WCF shall be placed underground or screened from Public view using Stealth Technology. All ground-mounted Accessory Equipment, Utility Buildings, and accessory Structures shall be architecturally designed to be concealed from Public view to the maximum extent possible and be compatible with the architecture of surrounding Buildings, Structures, or landscape.

- (c) Either one single-story Wireless communications equipment Building not exceeding 500 square feet in area or its equivalent may be permitted for each unrelated company sharing Antenna space on the Tower-Based WCF.
- e) Additional Antennas. As a condition of approval for all Tower-Based WCFs, the WCF Applicant shall provide the Zoning Hearing Board with a written commitment that it will allow other service providers to Collocate WCFs on the Tower-Based WCF where technically and economically feasible. To the extent permissible under state and federal law, the Owner of a Tower-Based WCF shall not install any additional WCFs without complying with the applicable requirements of this Section.
- f) FCC License. Each Person that owns or operates a Tower-Based WCF shall submit a copy of its current FCC license, including the name, address, and Emergency telephone number for the operator of the facility.
- g) Signs. All Tower-Based WCFs shall post a Sign in a readily visible location identifying the name and phone number of a party to contact in the event of an Emergency. The only other signage permitted on the WCF shall be those required by the FCC or any other federal or state agency.
- h) Lighting. No Tower-Based WCF shall be artificially lighted, except as required by law. If Lighting is required, the WCF Applicant shall provide a detailed plan for sufficient lighting, demonstrating as unobtrusive and inoffensive an effect as is permissible under state and federal regulations. The WCF Applicant shall promptly Report any outage or malfunction of FAA-mandated lighting to the appropriate governmental authorities and to the Township Secretary.
- i) Storage. The storage of unused equipment, materials, or supplies is prohibited on any Tower-Based WCF Site.
- j) Repair of Non-Conforming Tower-Based WCF. Non-conforming Tower-Based WCFs which are hereafter damaged or destroyed due to any reason or cause may be repaired and restored at their former location but must otherwise comply with the terms and conditions of this Section. The Collocation of Antennas is permitted on non-conforming Structures.
- k) Insurance. Each Person that owns or operates a Tower-Based WCF shall provide the Township Zoning Officer with a certificate of insurance evidencing general liability coverage in the minimum amount of \$5,000,000 per occurrence and property damage coverage in the minimum amount of \$5,000,000 per occurrence covering the Tower-Based WCF.
- l) Timing of Approval.
- (i) Within 30 calendar days of the date that an application for a Tower-Based WCF is filed with the Township Zoning Officer, the Township Zoning Officer shall notify the WCF Applicant in writing of any information that may be required to complete such application.
  - (ii) Within 150 days of receipt of an application for a Tower-Based WCF, and subject to applicable tolling procedures as established by federal law, the Zoning Hearing Board shall make a Decision to approve or deny the proposed Tower-Based WCF and the Township Zoning Officer shall issue the required Building and Zoning Permits authorizing Construction of the WCF.

5) Regulations Applicable to all Small Wireless Communications Facilities. The following regulations shall apply to Small Wireless Communications Facilities:

a) Application Requirements.

- (i) Small WCFs inside the Public Rights-of-Way are a permitted use in all Township Zoning districts, subject to the requirements of this Section and generally applicable permitting as required by the Township Municipal Code of Ordinances. Applications for Small WCFs shall be submitted to the Township Zoning Officer.
- (ii) Small WCFs outside the Public Rights-of-Way are permitted by Right in all Township Zoning districts except residential Zoning districts, subject to the requirements of this Section and generally applicable permitting as required by the Township Municipal Code of Ordinances. Applications for Small WCFs shall be submitted to the Township Zoning Officer.
- (iii) An application for a Small WCF shall include the following:
  - (a) Documentation that includes Construction and engineering drawings demonstrating compliance with the requirements of this Section;
  - (b) Self-certification that the filing and approval of the application is required by the WCF Applicant to provide additional capacity or coverage for Wireless services;
  - (c) Documentation demonstrating compliance with the requirements of the [Appendix A, Township Small Wireless Communications Facility Design Manual](#) and a completed Small Wireless Communications Facility Design Checklist;
  - (d) If the Small WCF will require the installation of a new Wireless Support Structure, documentation showing that the WCF Applicant has made a good faith Determination that it cannot meet the service reliability and functional objectives of the application by Collocating on an existing Wireless Support Structure. Such Determination shall be based on whether the WCF Applicant can meet the service objectives of the application by Collocating on an existing Wireless Support Structure on which:
    - 1. The WCF Applicant has the right to Collocation;
    - 2. The Collocation is Technically Feasible and would not impose substantial additional cost; and
    - 3. The Collocation would not obstruct or hinder travel or have a negative impact on Public safety.
  - (e) Documentation showing that the Small WCF does not materially interfere with the safe operation of traffic control equipment, sight lines, or clear zones for transportation or pedestrians or compliance with the Americans with Disabilities Act of 1990 (Public Law 101-336, 104 Stat. 327) or similar Federal or State standards regarding pedestrian access or movement; and
  - (f) A Report prepared by a qualified engineering expert which shows that the Small WCF will comply with all applicable FCC regulations, including but not limited to those relating to radio frequency emissions.

b) Applications Not Required. The Township shall not require an application for:

- (i) Routine maintenance or Repair work;
  - (ii) The replacement of Small WCFs with Small WCFs that are substantially similar or the same size or smaller and still qualify as a Small WCF; or
  - (iii) The installation, placement, maintenance, operation, or replacement of Micro Wireless Facilities that are strung on cables between existing Utility poles by or for a WCF Applicant that is authorized to occupy the ROW, in compliance with the National Electrical Safety Code.
- c) Location and Development Standards.
- (i) All Small WCFs shall comply with the applicable requirements of the Americans with Disabilities Act and all Township Municipal Code of Ordinances requirements applicable to Streets, Shared Use Pathways, and sidewalks.
  - (ii) No Small WCF shall be located on a private Lot in a residential district or on any single-family detached residences, single-family attached residences, semi-detached residences, duplexes, or any other residential Structure.
  - (iii) All Small WCFs shall be installed and maintained so as not to obstruct nor hinder travel or Public safety within the ROW.
- d) Design Standards. All Small WCFs in the Township shall comply with the requirements of the [Appendix A, Township Small Wireless Communications Facility Design Manual](#).
- e) Time, Place, and Manner. The Township shall determine the time, place, and manner of Construction, maintenance, Repair, and/or removal of all Small WCF in the ROW based on Public safety, traffic management, physical burden on the ROW, and related considerations.
- f) Private Property. If a Small WCF is to be located outside of the Public ROW, or if any part of a Small WCF located in the Public ROW will encroach upon private property, the WCF Applicant shall provide the Township Zoning Officer with evidence that the Owner of such private property has granted permission for the Construction of the Small WCF.
- g) Minimum Setbacks. The minimum distance between the base of a Small WCF, located outside of the Public ROW, that requires the installation of a new Wireless Support Structure and any adjoining property line or Street ROW line shall be equal to 100% of the Height of the Small WCF, unless the WCF Applicant provides evidence that a lesser Setback shall have no potential negative effect on Public safety.
- h) Historic Buildings. No Small WCF may be located within 100 of any property, or on a Building or Structure that is listed on either the National or Pennsylvania Registers of Historic Places, or eligible to be so listed, located within a historic district, or is included in the official Historic Structures list maintained by the Township.
- i) Third-Party Property. Where a Small WCF is proposed for Collocation on a Wireless Support Structure, located on private property, or other property that is not owned by the WCF Applicant, the WCF Applicant shall present evidence to the Township Zoning Officer that the Owner of the Wireless Support Structure has authorized Construction of the proposed Small WCF.

- j) Graffiti. Any graffiti on a Small WCF, including the Wireless Support Structure and any Accessory Equipment, shall be removed at the sole expense of the Owner within 30 days of notification by the Township.
- k) Timing of Approval.
  - (i) Within 10 calendar days of the date that an application for a Small WCF is filed with the Township Zoning Officer, the Township shall notify the WCF Applicant in writing of any information that may be required to complete such application.
  - (ii) Within 60 days of receipt of an application for Collocation of a Small WCF on a pre-existing Wireless Support Structure, and subject to applicable tolling procedures as established by federal law, the Township Zoning Officer shall make a final Decision on whether to approve the application and shall notify the WCF Applicant in writing of such Decision.
  - (iii) Within 90 days of receipt of an application for a Small WCF requiring the installation of a new or replacement Wireless Support Structure, and subject to applicable tolling procedures as established by federal law, the Township Zoning Officer shall make a final Decision on whether to approve the application and shall notify the WCF Applicant in writing of such Decision.
  - (iv) If the Township denies an application for a Small WCF, the Township shall provide the WCF Applicant with written documentation of the basis for denial, including the specific provisions of the Township Municipal Code of Ordinances on which the denial was based, within five Business Days of the denial.
  - (v) The WCF Applicant may cure the deficiencies identified by the Township and resubmit the application within 30 days of receiving the written basis for the denial without being required to pay an additional application fee. The Township shall approve or deny the revised application within 30 days of the application being resubmitted for review.
- l) Consolidated Application.
  - (i) A WCF Applicant may submit a consolidated application for Collocation of multiple Small WCFs. The consolidated application shall not exceed 30 Small WCFs.
  - (ii) A WCF Applicant may not submit more than one consolidated application in a single 30-day period.
  - (iii) If a WCF Applicant submits more than one consolidated application in a 45-day period, the applicable processing deadline shall be extended 15 days in addition to the processing deadline specified above.
- m) Completion of Work. All Construction work relating to the Small WCF for which a permit is granted under this Section shall be completed within one year of the date of issuance of the permit.
- n) Repair and Restoration.
  - (i) The WCF Applicant shall Repair all damage to the ROW or any other land so disturbed, directly caused by the activities of the WCF Applicant or the WCF Applicant's

contractors and return the ROW to as good of condition as it existed prior to any work being done in the ROW by the WCF Applicant or the WCF Applicant's contractors.

- (ii) If the WCF Applicant fails to make the Repairs required by the Township within thirty (30) days after written notice, the Township may perform those Repairs and charge the WCF Applicant the reasonable, documented cost of the Repairs plus a penalty of \$500.
  - (iii) The Township may suspend the ability of the WCF Applicant to receive new permits until the WCF Applicant has paid the amount assessed for the Repair costs and the assessed penalty.
- o) Relocation or Removal of Facilities.
- (i) Within 60 days of suspension or revocation of a permit due to noncompliance with the requirements of the Township Municipal Code of Ordinances, the WCF Applicant shall remove the Small WCF and any Accessory Equipment, including the Wireless Support Structure, if the WCF Applicant's WCF(s) are the only facilities on the Wireless Support Structure.
  - (ii) Within 90 days of the end of a permit term, the WCF Applicant shall remove the Small WCF and any Accessory Equipment, including the Wireless Support Structure, if the WCF Applicant's WCF(s) are the only facilities on the Wireless Support Structure.
  - (iii) Following written notice from the Township, or such longer period as the Township determines is reasonably necessary or such shorter period in the case of an Emergency, the WCF Applicant shall, at its own expense, temporarily or permanently remove, relocate, change or alter the position of any Small WCF when the Township, consistent with its police powers and applicable Public Utility Commission regulations, shall determine that such removal, relocation, change, or Alteration is reasonably necessary under the following circumstances:
    - (a) The Construction, Repair, maintenance, or installation of any Township or other Public improvement in the ROW;
    - (b) The operations of the Township or other governmental entity in the ROW;
    - (c) Vacation of a Street or Road or the release of a Utility Easement; or
    - (d) An Emergency as determined by the Township
- p) Reimbursement for ROW Use. In addition to permit fees as described in this section, every Small WCF in the ROW is subject to the Township's right to fix annually a fair and reasonable fee to be paid for use and occupancy of the ROW. Such compensation for ROW use shall be directly related to the Township's actual ROW management costs, including, but not limited to, the costs of the administration and performance of all reviewing, inspecting, permitting, supervising, and other ROW management activities by the Township. The Owner of each Small WCF shall pay an annual fee to the Township to compensate the Township for the Township's costs incurred in connection with the activities described above. Such fees shall comply with the applicable requirements of the Federal Communications Commission.

§ 200-412 Supplement Use Regulations – Industrial

All outdoor storage associated with Industrial Uses shall adhere to the provisions in **Subpart D, Outdoor Storage Yard**, below.

A. Brewery, Distillery, Winery. The following Use regulation applies:

- 1) A Brewery, Distillery, Winery shall have at least one loading berth, with an Additional berth when the Gross Floor Area exceeds 50,000 square feet.

B. Data Center. The following Use regulations apply:

- 1) Data centers that are ancillary to another primary use are permitted if they a) occupy no more than 10% of the Building footprint, b) are used to serve the enterprise functions of the on- Site property Owner and are not used to lease data storage and processing services to third parties, and c) are not housed in a separate stand- alone Structure on the parcel.
- 2) Upon request by Township staff after issuance of a Certificate of Occupancy and commencement of the operation of the data center, the operator of a data center must provide an on-Site neighborhood liaison between the hours of 8:00 a.m. and 10:00 p.m. EST each day to respond to complaints about Noise emanating from the data center.
- 3) The data center must be designed and built to incorporate Sound mitigation methods sufficient to prevent the Sound levels emanating from the data center (as determined by a third-party acoustic engineer) from exceeding the ambient Noise levels that were observed in the baseline study. Design specifications for such Sound mitigation must be provided to the Township before Building permit approval.
- 4) Upon issuance of a Certificate of Occupancy or certificate of completion, whichever occurs first, the data center operator must conduct a Noise study performed by a third-party acoustical engineer to document Noise levels emanating from the data center measured at the property line of the nearest property to the data center property that is planned or zoned for residential land uses, or other Noise sensitive use as reasonably determined by the Zoning Administrator during peak operation of the data center mechanical equipment. The data center operator must also conduct an additional Noise study, as measured at the property line of the nearest property to the data center property that is planned or zoned for residential land uses, or other Noise sensitive use as reasonably determined by the Planning Commission, annually during peak operation of the data center mechanical equipment for five years after completion of the initial post-Construction Noise study. The data center operator must provide the results of the Noise study to the Township within 30 days of the anniversary of the date on which the Certificate of Occupancy or certificate of completion was issued by the Township.
- 5) If the data center operator intends to use backup power generators on the parcel, the operator must maintain a Public website announcing the times when the generators will be in operation. Any routine operation of the backup generators, including for Testing purposes, must be announced on the website at least 24 hours in advance. The operator shall also notify the Township at least 24 hours in advance of a test. Unless the generators are supplying backup electrical supply during a power outage, backup generators may operate between the hours of

9:00 a.m. and 5:00 p.m., Monday through Friday, excluding holidays. Upon request by Township staff, the data center operator must provide the address of the website where the notices required by this section are published.

6) The facility must not be within 3,000 feet of another data center.

C. Industrial, Heavy and Light. The following Use regulation applies:

1) Additional Application Information. The Zoning Officer may request additional information to ensure proper evaluation of such application. Such information may include ventilation plans, materials characteristics, drainage plans, waste disposal plans, and chemical disposition plans.

D. Junkyard. The following Use regulations apply:

1) Minimum Lot Area. 25 acres.

a) The Lot Area shall not be divided by Streets, the Flood Hazard Overlay, or Rights-of-Way.

2) The outdoor area devoted to the storage of Junk must be completely enclosed by an eight-foot-high opaque fence which must be set back at least 50 feet from all Lot Lines and 100 feet from a Lot in a Residential Zoning District or containing a Residential Use.

3) Junkyards shall be set back a minimum of 100 feet from Floodplain and wetland areas.

4) The Setback area between the fence and the Lot Lines must be kept free of weeds and all scrub growth.

5) The minimum Front Yard Setback shall be 100 feet.

6) The minimum Side Yard Setback shall be 50 feet.

7) A Filtering Buffer of 40 feet is required unless the storage is not visible from an exterior Lot Line or Street.

8) All completely enclosed Buildings used to store Junk must be set back at least 50 feet from all Lot Lines.

9) No material may be stored or Stacked so that it is visible from adjoining properties and Roads.

10) The operation must be licensed pursuant to Pennsylvania Code Chapter 451, Control of Junkyards and Automotive Dismantlers and Recyclers and obtain and maintain all applicable permits.

11) All Junk must be stored or arranged to permit access to firefighting equipment and to prevent the accumulation of water, and with no Junk piled to a Height greater than 6 feet.

12) No oil, grease, tires, gasoline, or other similar material shall be burned at any time.

13) Any Junkyard must be maintained in such a manner as to cause no Public or private nuisance, not to cause any offensive or noxious Sounds or odors, nor to the breeding or harboring of rats, flies, mosquitoes, or other vectors.

14) A stormwater management plan shall be submitted as part of the application for a Junkyard in accordance with **Chapter 170, Subdivision and Land Development Ordinance**.

15) A Junkyard is prohibited on land with a Slope in excess of 5%.

D. Outdoor Storage Yard. The following Use regulations apply:

1) Loose materials shall not be Stacked higher than 20 feet.

2) Loose materials shall at a minimum be stored in a three-sided shelter and shall be covered.

3) Materials shall be set back a minimum of five feet from any Lot line.

E. Solid Waste Disposal Facility. The following Use regulations apply:

- 1) All Solid Waste storage, disposal and incineration shall be at least 200 feet from the following: Public Street Right-Of-Way, exterior Lot line, One-Hundred-Year Floodplain, edge of a surface water body (including a water-filled quarry) or wetland of more than two acres in area.
- 2) All areas to be used for the storage, disposal or incineration of Solid Waste shall be a minimum of 500 feet from any residential district or Publicly owned park or any existing dwelling that the Applicant does not have an agreement to purchase or the banks of any perennial creek or river.
- 3) The use shall be served by a minimum of two paved access Roads, each with a minimum cartway width of 24 feet. One of these Roads may be restricted to use by Emergency Vehicles.
- 4) Any burning or incineration shall be carried out in a completely enclosed Incinerator approved by the DEP Any material to be incinerated that is to be stored for more than three hours shall be stored in an enclosed Structure.
- 5) The operation and day-to-day maintenance of the Solid Waste disposal area shall comply with all applicable state and federal regulations as a condition of the continuance of any permit of the Township. Violations of this condition shall also be considered to be violations of this Chapter.
- 6) Open dumps and open burning of refuse are prohibited.
- 7) In cooperation with DEP requirements, an appropriate double liner and a system to collect and treat leachate and methane is very strongly encouraged for any sanitary landfill.
- 8) The Applicant shall prove to the satisfaction of the Board of Supervisors that the use would not routinely create noxious odors off of the Tract.
- 9) A chain-link or other approved fence with a minimum Height of eight feet shall surround active Solid Waste disposal areas to prevent the scattering of litter and to keep out children, unless the Applicant proves to the satisfaction of the Board of Supervisors that this is unnecessary. The Board shall require earth Berms, evergreen screening and/or shade trees, as needed, be used to prevent landfill operations from being visible from an expressway or arterial Streets or dwellings.
- 10) A minimum total Lot area of 20 acres (which may include land in an adjoining municipality) is required for any Solid Waste facility other than a solid-waste-to-energy facility or a Solid Waste transfer facility. For a solid-waste-to-energy facility or Solid Waste transfer facility, a minimum Lot area of five acres shall be required for the first 250 tons per day of capacity to treat or dispose of waste, plus one acre for each additional 100 tons per day of capacity. A Solid Waste facility shall have a maximum total capacity of 750 tons per day.
- 11) Health hazards. Any facility shall be operated in such a manner to prevent the attraction, harborage or breeding of insects, rodents or vectors.
- 12) Attendant. An attendant shall be present during all periods of operation or dumping.
- 13) Gates. Secure gates, fences, earth mounds and/or dense vegetation shall prevent unauthorized access.
- 14) Emergency access. The operator of the use shall cooperate fully with local Emergency services. This should include allowing practice exercises on the Site and the provision of all information

needed by the Emergency services to determine potential hazards. Adequate means of Emergency access shall be provided.

- 15) Under authority granted to the Township under Act 101 of 1988, the hours of operation shall be limited to between 7:00 a.m. and 9:00 p.m.
  - 16) Litter. The operator shall regularly police the area of the facility and surrounding Streets to collect litter that may escape from the facility or Trucks.
  - 17) Dangerous materials. No radioactive, hazardous, chemotherapeutic or infectious materials may be stored, processed, disposed or incinerated. Infectious materials are defined as medical wastes used or created in the treatment of persons or animals with seriously contagious diseases.
  - 18) Staging. No total area(s) larger than 50 acres shall be used as a disposal area for a sanitary landfill in any calendar year.
  - 19) The Applicant shall provide sufficient information for the Township to determine that the requirements of this Chapter will be met.
  - 20) State requirements. Nothing in this Chapter is intended to supersede any state requirements. It is the intent of this Chapter that when similar issues are regulated on both the Township and state levels, that the stricter requirement shall apply for each aspect, unless it is determined that an individual state regulation preempts Township regulation in a particular aspect. The Applicant shall provide the Zoning Officer with a copy of all written materials and plans that are submitted to Pennsylvania Department of Environmental Protection at the same time as they are submitted.
  - 21) The operator shall enter into an agreement with the Township specifying the types and frequencies of environmental monitoring that will be put into place while a solid-waste-to-energy or sanitary landfill is underway and for a minimum of three years after any landfill is closed.
  - 22) A leachate treatment system may be an accessory use to a landfill, and a recycling collection center and/or bulk recycling center are permitted in combination with any permitted Solid Waste disposal facility.
  - 23) For any transfer facility or waste-to-energy facility, all loading and unloading of Solid Waste shall only occur within an enclosed Building, and over an Impervious Surface and drain to a holding tank that is then adequately treated.
  - 24) At least a portion of the Solid Waste disposal facility shall be within one and a half miles by Street of a ramp of an expressway.
  - 25) The Applicant shall provide a professional analysis of the expected impacts of the facility on air quality, Groundwater quality and surface water quality, and expected health hazards to humans.
- F. Trucking Terminal. The following Use regulations apply:
- 1) The minimum Lot area for a Truck Terminal shall be 10 acres.
  - 2) All Truck Terminals shall satisfy the requirements applicable to all Warehouse/Logistics Uses.
  - 3) A Truck Terminal that exceeds 25,000 square feet of Total Floor Area per Lot shall satisfy the requirements for a Large Warehouse/Logistics Use.
  - 4) A Truck Terminal shall have its main access point(s) within one half-mile of an entrance to and an exit from an expressway, defined as a divided arterial highway for through traffic with partial control of access and generally with Grade separations at major intersections.

- 5) All entrances for Trucks, loading/unloading areas, outdoor storage and Truck parking areas shall be a minimum of 250 feet from any dwelling and from the boundary of any Residential Zoning District.

G. Warehouse/Logistics Use. The following Use regulations apply:

- 1) Dimensional Requirements.
  - a) The minimum Lot area for a Small Warehouse/Logistics Use having a total Gross Floor Area less than 25,000 square feet shall comply with the minimum Lot Area requirements of the Zoning District.
  - b) The minimum Lot area for a Large Warehouse/Logistics Use or Truck Terminal having a total Gross Floor Area between 25,000 square feet and 100,000 square feet per Lot shall be five acres.
  - c) The minimum Lot area for a Large Warehouse/Logistics Use or Truck Terminal having a Gross Floor Area in excess of 100,000 square feet shall be 10 acres.
- 2) Woodlands Disturbance. Must comply with the Woodlands Protection standards in [Article VI, Natural Resource Protection](#).
- 3) Riparian Forest Buffer Area.
  - a) For purposes of this section, a Riparian Buffer is an area of permanent vegetation along a waterway that is left undisturbed to allow for natural succession of native vegetation. A riparian forest Buffer is a Riparian Buffer that consists predominantly of native trees, shrubs and forbs that provide at least 60% uniform canopy cover.
  - b) Persons proposing a Warehouse/Logistics or Truck Terminal subject to the requirements of this Section use must satisfy the stricter of the requirements of 25 Pa. Code §102.14, Riparian Buffer Requirements.
- 4) Access and Parking.
  - a) The use shall have direct access to an arterial Road, defined as a Street with an existing or proposed Right-Of-Way width of 50 feet or more and a minimum average annual daily traffic rate of 5,000 Vehicles per day.
  - b) Where gates, guard shacks or checkpoints are proposed at the entrance(s) to the facility, adequate queuing space shall be provided within the property boundaries to prevent Stacking of Vehicles on or along Public Streets.
- 5) Off-Street Loading.
  - a) Each Warehouse/Logistics use shall provide off-Street loading facilities which meet the minimum requirements of this Section and are sufficient to accommodate the maximum demand generated by the use.
  - b) A minimum of one off-Street Loading Space per loading dock must be provided. Spaces for tractor Trailers must measure at least 12 feet by 80 feet.
  - c) Each Loading Space and the needed maneuvering room shall be located entirely on the Lot being served and be located outside of required Buffer areas and Street Rights-of-way.
- 6) Sensitive Receptors.
  - a) For purposes of this section, sensitive receptors shall be defined as Schools, Day Cares, Home-based Day Cares, health facilities such as Hospitals, Assisted Living Facilities, General and Neighborhood assembly, Recreation, Parks, Campgrounds, and any residence where such

residence is not located on a parcel with an existing Industrial use as determined by the Zoning officer.

- b) Unless physically impossible, loading docks, Truck entries, and Truck drive Aisles shall be oriented away from Abutting sensitive receptors.
- c) To the greatest extent feasible, loading docks, Truck entries, and Truck drive Aisles shall be located away from nearby sensitive receptors. In making feasibility Decisions, the Township must consider existing laws and regulations and balance Public safety and the Site development's potential impacts to nearby sensitive receptors. Loading docks, Truck entries, and drive Aisles may be located near sensitive receptors at the discretion of Board of Supervisors, but any such Site design shall include measures designed to minimize overall impacts to nearby sensitive receptors.
- d) For any Warehouse/Logistics Use larger than 100,000 square feet in size, the Building's loading docks shall be located a minimum of 300 feet away, measured from the property line of the sensitive receptor to the nearest dock door using a direct straight-line method.
- e) Additional Use requirements apply to Large Warehouses:
  - (i) Environmental and Community Impact Analysis. As part of the Special Exception Use process, the Applicant shall provide an environmental and community impact analysis. The environmental and community impact analysis shall include:
    - (ii) A narrative description of the nature of the on-Site activities and operations, including the market area served by the facility, the hours of operation of the facility, the total number of employees on each shift, the times, frequencies and types of Vehicle trips generated, the types of materials stored and the duration period of storage of materials.
    - (iii) A Site plan of the property indicating the location of proposed improvements, Flood plains, Wetlands, waters of the Commonwealth, and cultural and Historic Resources on the property and within 500 feet of the boundaries of the property.
    - (iv) Evidence that the disposal of materials will be accomplished in a manner that complies with state and federal regulations.
    - (v) An evaluation of the potential impacts of the proposed use, both positive and negative, upon:
      - (a) Emergency services and fire Protection;
      - (b) Water supply;
      - (c) Sewage disposal;
      - (d) Solid Waste disposal;
      - (e) School facilities and school district budget;
      - (f) Municipal revenues and expenses
      - (g) Any environmental impacts that are likely to be generated (e.g., odor, Noise, smoke, dust, litter, glare, vibration, electrical disturbance, wastewater, stormwater, Solid Waste, etc.) and specific measures employed to mitigate or eliminate any negative impacts. The Applicant shall further furnish evidence that the impacts generated by the proposed use fall within acceptable levels, as regulated by applicable laws and ordinances.

## § 200-413 Supplemental Accessory Use Regulations

### A. General Provisions.

- 1) Allowed Accessory Uses.
    - a) Accessory Uses as listed in [Figure 200-4-1, Table of Permissible Uses](#), are allowed only in connection with the lawfully established Principal Uses.
    - b) Allowed Accessory Uses are limited to those expressly regulated in this Chapter as well as those that, in the Determination of the Zoning Officer, satisfy the following criteria:
      - (i) They are customarily found in conjunction with the subject Principal Use(s) or Principal Structure;
      - (ii) They are subordinate and clearly incidental to the Principal Use(s) of the property; and
      - (iii) They serve a necessary function for the comfort, safety or convenience of occupants of the Principal Use(s).
  - 2) Accessory Structures.
    - a) A Principal Use and/or Structure must be established on the Lot prior to the establishment of an Accessory Use/Structure.
    - b) No use that is to be carried on in an accessory structure shall violate the permitted uses in the district in which the principal structure is located.
    - c) All accessory structures shall comply with the front, side, and rear Yard Setback requirements for the district in which the principal structure is located.
    - d) Accessory structures are only permitted in side or rear yards.
  - 3) Time of Construction and Establishment. Accessory Uses may be established only after the Principal use of the subject property is in place.
  - 4) Location.
    - a) Accessory Uses must be located on the same Lot as the Principal Use to which they are accessory, unless otherwise expressly stated.
    - b) All accessory structures shall only be constructed within the rear yard or side yard areas of the lot.
- B. Agritourism Marketing Enterprise. The following use regulations apply:
- 1) An agritourism marketing enterprise shall be conducted in such a way that no traffic congestion, Noise, glare, air pollution, odor, smoke, vibration, fire hazards, safety hazards, electromagnetic interference, or otherwise, shall be noticeable at or beyond the property line.
  - 2) The hours of operation shall be consistent with other businesses in the district and protect neighbors from light, Noise, disturbance, or interruption.
- C. Community Garden, Accessory. Permitted as an Accessory Use pursuant to the provisions specified under [§200-407-C, Community Garden, Principal](#), of this Chapter.
- D. Drive-Through Facility, Accessory. The following Use regulations apply:
- 1) Lot Size. Lot sizes shall be large enough to efficiently and safely serve the operations of the Vehicle Drive Through Facility while accommodating all necessary elements of good and efficient Site design of Vehicle Drive-through Facilities.
  - 2) Number. No more than one Drive Through Facility may be permitted per Lot.

3) Placement.

- a) Buildings with a Drive-through Facility shall be located as close as possible to the Street Line or corner Street Frontages for corner Sites, to help frame the Street edges. The siting of the Building relative to the Street shall consider the existing and future Development on the Street or in the neighborhood.
- b) Sites with multiple Commercial Buildings on the property, Drive-Through Facilities shall be located internal to the Site away from property corners, intersections of Streets or from the Street Frontages, to reduce the visibility of Vehicle drive-through traffic on the Site from Street view.

4) Site Access.

- a) The subject Site shall have access to a collector or arterial Road.
- b) The number of Access Drives into a Site shall be minimized to reduce conflicts between turning Vehicles and other users of the Street, reduce curb cuts and interruptions to sidewalks and Shared Use Pathways.
- c) Vehicle queuing lanes shall be separated from all Aisles, shall not result in additional curb cuts along the same Street Frontage and shall not have direct ingress and egress from any Street.
- d) Vehicle queuing lanes shall not obstruct or interfere with Parking Spaces, pedestrian Aisles or walkways and loading or service areas.

5) Parking.

- a) Surface parking areas shall be located at the side or the rear of the Building away from the Public Street.
- b) Parking areas shall not be located between the Building and the Street.
- c) Parking areas shall not convey pedestrians across Driveways or Vehicle queuing lanes to enter the Building.
- d) The parking areas shall not conflict with the ingress and egress of the Vehicle queuing lanes. This can be achieved by locating the parking areas away from the Vehicle queuing lanes or clearly delineating the parking areas with appropriate barriers and signage.
- e) Larger parking areas shall be separated into smaller well-defined sections, using a combination of hard and soft Landscaping to avoid large, paved surfaces in parking areas.

E. Dwelling Unit, Accessory. The following Use regulations apply:

- 1) A Landowner must file a Permit for an accessory Dwelling Unit prior to its recognition as an Accessory Dwelling Unit. The property proposed for an Accessory Dwelling Unit must contain one, but no more than one, residential Structure occupied as a one-unit Dwelling.
- 2) If the accessory Dwelling Unit is not Owner-occupied, the Landowner must file a Residential Rental Occupancy Permit.
- 3) If the accessory or principal Dwelling Unit on the property is not Owner-occupied, the Landowner must designate a Local Property Representative who shall be available 24 hours per day, seven days per week, for the purpose of (1) responding within one hour to complaints regarding the condition, operation, or conduct of occupants of the Accessory Dwelling Unit, and (2) taking remedial action to resolve any such complaints. The name, address, and telephone contact

number of the Landowner and the local property representative shall be kept on file at the Township. The failure to provide the contact information, failure to keep the contact information current, failure to respond in a timely manner to complaints, or the occurrence of repeated complaints may result in the suspension or revocation of approval and/or civil or criminal penalties.

- 4) The Accessory Dwelling Unit shall be located either:
    - a) In a newly constructed Accessory Dwelling Unit Structure;
    - b) In an existing detached accessory Structure occupied, or formerly occupied, on the first floor by a Garage, barn, or similar Accessory Use; or
    - c) In a Principal Structure provided that there is a separate entrance to the exterior or to an unconditioned Porch type space.
  - 5) The Usable Floor Area of the Accessory Dwelling Unit shall not exceed 50% percent of the Usable Floor Area of the principal Dwelling Unit. Exterior patios, decks, Porches, and staircases providing interior access from the principal unit to the Accessory Dwelling Unit shall not be counted toward the Usable Floor Area of the Accessory Dwelling Unit.
  - 6) The orientation of the proposed Accessory Dwelling Unit shall, to the maximum extent practical, maintain the privacy of residents in adjacent Dwellings as determined by the physical characteristics surrounding the Accessory Dwelling Unit including landscaped screening, fencing, and Window and door placement.
  - 7) A separate numeric address for the Accessory Dwelling Unit is prohibited.
  - 8) No new, separate Utility connection may be installed for the Accessory Dwelling Unit in a Principal Structure, unless more than one Utility connection already serves the Lot, to the location of the proposed Accessory Dwelling Unit, at the time of the application for the Accessory Dwelling Unit.
  - 9) Wastewater Disposal. Certification that the Accessory Dwelling Unit can adequately connect to the existing sewer line or septic system is required. If it is determined that the existing septic tank cannot handle additional capacity from the Accessory Dwelling Unit, plans for a separate on Lot disposal system shall be submitted and approved. Provided that the primary dwelling is connected to the Public Sewer system, an Accessory Dwelling Unit shall connect or tie into the primary dwelling's sewer line.
  - 10) Lot Non-severability. The Accessory Dwelling Unit may not be conveyed, or the title to the Accessory Dwelling Unit be transferred separate and apart from the rest of the property.
  - 11) Location.
    - a) Must be 15 from all side property lines.
    - b) Must be 15 feet from all rear property lines.
    - c) Must be 15 from rear most portion of principal Structure, if located in separate Structure.
- F. Electric Vehicle Charging Station (EVCS). The following performance standards apply to Level 2 and 3 EVCSs:
- 1) All EVCS regulations authorized by this Ordinance shall be read in conjunction with the Parking in Article VII, Parking and Circulation, of this Chapter.

- 2) A Property Owner shall not install any EVCS on a property until a Zoning Permit has been issued by the Township to the Property Owner.
  - 3) Electric Vehicle Make Ready System.
    - a) All new, expanded and reconstructed parking areas may provide for the electrical capacity necessary to accommodate the future hardware installation of EVCS through an Electric Vehicle Make Ready System.
    - b) Property Owners may apply for a Zoning Permit for an Electric Vehicle Make Ready System at the time of Construction or renovation of appropriate charging areas.
- G. Farm Stand. The following Use regulation applies:
- 1) Area. Farm Stands shall not exceed 300 square feet of Floor Area.
- H. Home Child Care. The following Use regulations apply:
- 1) Limited Attendees. More than six and fewer than 13 children may be cared for at a time. Six or fewer children is considered a Home Occupation. Thirteen or more children is considered a Child Day Care Center.
  - 2) Outdoor Play Area. Home Child Care shall include a fenced outdoor play Area.
  - 3) Accessory Use. Home Child Care may only be an Accessory Use to the Principal use of a Dwelling.
  - 4) Revocation. The Zoning Officer shall have discretion to revoke a Zoning Permit for Home Child Care if such Use is a Nuisance to neighboring properties.
  - 5) Limited Number. The number of Home Child Care Accessory Uses on any Zoning Lot shall not exceed one.
- I. Home Based Business, No Impact. The business or Commercial activity must satisfy the following requirements:
- 1) The business activity shall be compatible with the residential use of the property and surrounding residential uses.
  - 2) The business shall employ no employees other than Family members residing in the dwelling.
  - 3) There shall be no display or sale of retail goods and no stockpiling or inventory of a substantial nature.
  - 4) There shall be no outside appearance of a business Use, including, but not limited to, parking, Signs or lights.
  - 5) The business activity may not Use any equipment or process which creates Noise, vibration, glare, fumes, odors or electrical or electronic interference, including interference with radio or television
  - 6) The business activity may not generate any Solid Waste or sewage discharge, in volume or type, which is not normally associated with residential Use in the neighborhood.
  - 7) The business activity shall be conducted only within the dwelling and may not occupy more than 25% of the Habitable Floor Area.
- J. Home Occupation. The following Use regulations apply:

- 1) Advertisement. Offering, displaying or advertising any commodity or service for sale on the Premises is prohibited, except that an identification Sign is permitted in accordance with the regulations of [Article X, Signs](#), of this Chapter.
  - 2) Outside Storage. No materials or products shall be stored outside of a Building.
  - 3) Area. The customary home occupation shall not occupy more than 25 percent of the Usable GFA of a Dwelling Unit in which the Home Occupation is operated.
  - 4) Employees. Employment is limited to any member of the immediate household residing in the Dwelling Unit plus one Person not residing in the Dwelling Unit.
  - 5) Hours of Operation. Permitted hours of operation are 7 AM to 6 PM prevailing time, Monday – Friday, and 8 AM to 5 PM prevailing time on Saturdays.
  - 6) Limited Attendees. Up to four attendees may be served or instructed at a time, except as provided for in Home Child Care.
  - 7) Residence. The operator of the Home Occupation shall reside in the Dwelling Unit in which the Home Occupation operates.
  - 8) Physical Appearance. The appearance of the Structure shall conform to the general form, function, and character of the area it is located.
  - 9) Vehicles. No more than one Motor Vehicle shall be used in connection with a Home Occupation.
- K. Keeping of Chickens. The keeping of Chickens for non-Commercial purposes shall be permitted as an Accessory Use and shall abide by the following regulations:
- 1) General.
    - a) The keeping of Chickens shall not be for Commercial purposes.
    - b) These regulations do not apply to the raising of poultry and other fowl as an Agricultural Operation use and where such uses are permitted within this Ordinance.
    - c) A permittee shall not engage in Commercial: (1) Chicken breeding; (2) sale of Chickens; (3) egg producing; or (4) fertilizer production.
    - d) Keeping of Roosters is prohibited.
  - 2) Number of Chickens per Lot.
    - a) Three Chickens shall be permitted for the first one acre.
    - b) One additional chicken shall be permitted for each additional one quarter acre, up to a maximum of 20 Chickens per Lot.
    - c) Notwithstanding **Subsection L.2.a and b** there shall be no limit on the number of Chickens on Lots over five acres.
  - 3) Type. Chickens shall be hens. Roosters and English Gamecocks are prohibited.
  - 4) Coops. Chicken Coops shall:
    - a) Have a solid Roof.
    - b) Be solid on all sides.
    - c) Have adequate ventilation.
    - d) Provide Protection from predators.
    - e) Be designed to secure the Chickens.
    - f) Be readily accessible for cleaning.

- g) Coops shall provide a minimum of three square feet per Chicken.
  - 5) Pens.
    - a) Pens shall provide minimum of 10 square feet of area for the first chicken, and then an additional three square feet per each additional Chicken.
    - b) Pens shall be constructed in a way to prevent Chickens from roaming free and keep predators from getting into the pen.
    - c) The Pen shall be accessible by the hens from their Coop when they are not secured in the Coop.
  - 6) Location. Any part closer than 10 feet from any property line shall be screened by closed fencing or solid Hedge.
  - 7) Living Conditions.
    - a) Chickens shall have access to feed and clean water at all times.
    - b) Feed shall be secured to prevent rodents or other pests from accessing the feed.
  - 8) Disposition of Deceased Chickens. Chicken carcasses shall be disposed of in compliance with 3 Pa. C.S. § 2352, and no Person shall slaughter a Chicken in a residential zone.
  - 9) Disposal of Waste Material. Satisfactory evidence must be presented to indicate that adequate storage and disposal of animal waste shall be provided in a manner that will not create a Public health hazard or nuisance according to described in 25 Pa. Code § 91.36(b), Manure Management.
- L. Keeping of Honeybees. The Keeping of Honeybees for non-Commercial purposes shall be permitted as an Accessory Use and shall abide by the following regulations:
- 1) General.
    - a) The Keeping of Honeybees shall not be for Commercial purposes.
    - b) These regulations do not apply to beekeeping and apiaries when associated with an Agricultural Operation use and where such uses are permitted within this Ordinance.
    - c) The keeping of one or more colonies of the common domestic honeybee, *Apis Mellifera*, shall be permitted as an Accessory Use to a permitted primary use when in compliance with Pennsylvania's Bee Law, 3 Pa. C.S.A. § 2101, et seq., as amended. Additionally, all beekeepers shall maintain their colonies per the Voluntary Best Management Practices for Maintaining European Honeybee Colonies in the Commonwealth of Pennsylvania as provided and as may be amended by the Pennsylvania Apiary Advisory Board. Colonies include a Hive and its equipment and appurtenances, including bees, comb, honey, pollen, and brood.
  - 2) Maximum Number of Colonies.
    - a) Any Lot containing a residential Use shall be limited to two colonies. One additional colony is permitted for every 1,000 square feet of Lot Area over 10,000 square feet, and an absolute maximum of 10 colonies.
    - b) Exceptions. A beekeeper may exceed these regulations under the following conditions:
      - A. As part of normal honeybee colony management, a beekeeper may also keep, in addition to allowable standard Hives, for up to 45 days between April 15th and August 15th, two nucleus colonies per standard Hive, provided they are used for managing colony strength, to minimize reproductive swarming, queen rearing or swarm capture.

- B. For each allowed Hive, a single nucleus Hive may be kept from August 16th to April 14th to allow a beekeeper to mitigate winter bee losses.
  - C. Apiaries that are pre-existing prior to enactment of this Ordinance shall not be subject to the limitations of section 4b and shall not exceed the number of Hives active at the time of the ordinance and shall be confirmed by the pre-existing apiary registration of the location as reported by the Pennsylvania Department of Agriculture, Bureau of Plant Industry.
- 3) Colony Size. No colony shall exceed 20 cubic feet in volume.
  - 4) Location. A colony shall be located in a Rear or Side Yard on any Lot with a Residential or Community Garden Use. No colony shall be located in the front Yard nor closer than 10 feet from any property line or Principal Building on an Abutting Lot unless a flyway barrier is in place. No colony shall be located within 50 feet of a pre-existing Swimming Pool or a pre-existing kenneled animal.
  - 5) Flyway Barrier. A flyway barrier of at least six feet in Height shall shield a property line within 10 feet of a colony, unless the base of the colony is located more than six feet above the ground.
    - a) A required flyway barrier shall consist of a wall, fence, dense vegetation, or a combination thereof.
    - b) The barrier shall be positioned along the side of the Hive(s) that contains the entrance to the Hive(s).
    - c) The barrier shall be located within five feet of the Hive(s) and shall extend at least two feet on either side of the Hive(s).
    - d) Exceptions to Flyway Barrier. A flyway barrier is not required if the property adjoining the apiary Lot line is: Undeveloped, or zoned agricultural, Industrial or is outside municipal limits, or is a state game lands, state park, national forest, state forest, natural park, or conservation area and has no pre-existing human or horse trails located within 25 feet of the property line.
  - 6) Agricultural Commercial Enterprise. No sales of honey shall occur on the Lot containing the honeybee colony, except in the case of a honeybee colony located on an Agricultural Operation or Community Garden where there is a Agricultural Commercial Enterprise, in which case the operator of the honeybee colony shall be permitted to sell honey at the Agricultural Commercial Enterprise.
  - 7) State Registration Required. All Persons keeping bees in the Township shall apply for a certificate of registration for beekeeping pursuant to the Bee Law, as amended.
  - 8) Education Certification. Written evidence shall be provided to the Township from each and every individual engaged in beekeeping activities and shall have completed a beekeeping education course/program with a minimum of eight (8) hours of instruction or has a letter of validation from an officer of the PA State Beekeepers Association, an officer of a local bee club, or a certified Master Beekeeper.
  - 9) Water. A supply of fresh water shall be maintained in a location readily accessible to all bee colonies on the Site throughout the day to prevent bees from congregating at neighboring Swimming Pools or other sources of water on nearby properties.

10) Nuisance. It shall be unlawful for any beekeeper to keep any Hive in such a manner as to cause any unhealthy condition or interfere with the normal use of adjoining properties. By way of example and not limited to, the following activities are hereby declared a nuisance and therefore unlawful:

- a) The use of receptacles for honeybees that does not comply with the Bee Law, as amended.
- b) Hive placement and related bee movement such that the bees, without provocation, interfere with the reasonable freedom of movement of Persons in a Public Right-Of-Way, or the location of bees have a proven impact to the general safety, health, and welfare of the Public.

11) Inspection. If an inspection is required as a result of a nuisance complaint, the designated municipal code enforcement officer will inspect the property only and not the beehives. A representative of the state or local beekeeping organization will be contacted to assist in understanding how the complaint arose and to what extent it is actually caused by the honeybees/beekeeper (i.e., “bee” stings are often caused by yellow jackets, hornets and wasps and mistakenly blamed on honey bees because the honey bee colonies can be seen unlike many other aggressive stinging insects). A notice of 48 hours shall be given to the beekeeper prior to any inspection.

M. Outdoor Dining Area. The following Use regulations apply:

- 1) An area which is on the sidewalk, patio or deck which directly Abuts the restaurant may be used for the purpose of furnishing food and beverages outside to the patrons of the restaurant.
- 2) Outdoor dining areas shall provide not less than five contiguous feet of sidewalk clear of Obstructions to allow unimpeded pedestrian traffic. Dining areas shall be arranged to permit a smooth alignment of the pedestrian sidewalk across several properties and shall not cause abrupt turns or angles. At Street corner intersections there shall be a minimum of eight feet of unobstructed sidewalk between the area measured from the outside edge of Handicapped ramps on each Street Frontage. Obstructions shall include, but not be limited to, light poles, traffic signal poles, fire hydrants, trees, Utility Structures and Street Signs. Further, the location of outdoor dining cannot obstruct the Clear Sight Distance for Vehicles or access or crossings for the disabled, nor be located with three feet from the face of the curb or traffic lane. Any unobstructed portion of the three-foot Setback from the face of the curb may be counted toward the five-foot sidewalk area required herein.
- 3) The outdoor dining area must be separated from all parking areas, Streets or Driveways by a barrier which is at least four feet in Height and no higher than six feet in Height. The barrier must prevent patrons of the restaurant from exiting directly onto the parking area, Street or Driveway adjacent to the outdoor dining area and instead must require the patrons of the restaurant to exit the outdoor dining area in a safe manner, either onto a sidewalk or through another means of ingress and egress which is approved by the Township. The barrier may be a fence, wall, or another suitable barrier approved by the Township which will prevent a hazardous condition and protect the health and safety of the outdoor diners from vehicular traffic on adjacent parking areas, Streets or Driveways.

- 4) The area used for outdoor dining must not block any off-Street parking, Access Drives, accessible walkways, fire lanes or loading areas.
  - 5) Open flames or external heating devices are permitted if approved by the Township Fire Marshal.
  - 6) If entertainment is provided in the outdoor dining area, any amplified Sound must meet the Township Noise regulations and cease by 9:00 p.m. on weekdays and 10:00 p.m. on weekends.
  - 7) Outdoor Displays. Outdoor displays shall be limited to single items or object displays or a few examples of items or goods sold in the store and must comply with all other standards specified herein.
  - 8) The restaurant shall stop serving customers on or before 10:00 p.m., prevailing time, and clear all tables of food, beverages and customers on or before 11:00 p.m., prevailing time.
  - 9) Furniture, planters, railings and fences must be removed from the sidewalk and stored indoors when outdoor dining is not in seasonal operation.
- N. Outdoor Display and Sales. The following Use regulations apply:
- 1) Outdoor displays may not extend more than five feet from the Building Façade and in no instance shall merchandise or other items for sale or advertisement be located beyond an established Street Line. In the case of Street Lines and Building Lines being coincident, there shall be no outdoor display;
  - 2) Merchandise or other items displayed as the Accessory Use shall be restricted to those items or merchandise which are sold at the Principal Use;
  - 3) If associated with a Principal Use on a Corner Lot, only a single Frontage shall be utilized for accessory outdoor display purposes;
  - 4) Merchandise or other items, and all temporary Structures used for outdoor display, shall be removed and stored indoors from dusk to dawn; and
  - 5) Notwithstanding any provision of this Part, the Public way, Street, Sidewalk, Curb, and all means of ingress and egress to the Structure containing the Principal Use shall be maintained free of Obstructions, merchandise or other items. A minimum of five feet of Sidewalk shall remain available and obstacle-free for passing pedestrians.
- O. Short-Term Rental, Accessory. The Use standards specified under [§200-405-K, Short-Term Rental, Principal](#), apply.
- P. Solar Energy System (ASES), Accessory. The following Use regulations apply:
- 1) ASES shall be permitted as a Use by right in all Zoning districts.
  - 2) Exemptions.
    - a) ASES with an aggregate collection and/or focusing area of 10 square feet or less are exempt from this Chapter.
    - b) ASES constructed prior to the effective date of this Chapter shall not be required to meet the terms and conditions of this Chapter. Any physical modification to an existing ASES whether or not existing prior to the effective date of this Part that materially alters the ASES shall

require approval under this Chapter. Routine maintenance or like-kind requirements do not require a permit.

- 3) The ASES layout, design, installation, and ongoing maintenance shall conform to applicable industry standards, such as those of the American National Standards Institute (ANSI), Underwriters Laboratories (UL), the American Society for Testing and Materials (ASTM), Institute of Electrical and Electronics Engineers (IEEE), Solar Rating and Certification Corporation (SRCC), Electrical Testing Laboratory (ETL), Florida Solar Energy Center (FSEC) or other similar certifying organizations, and shall comply with the UCC as enforced by the Township and with all other applicable fire and life safety requirements. The Manufacturer specifications for the key components of the system shall be submitted as part of the application.
- 4) Upon completion of installation, the ASES shall be maintained in good working order in accordance with standards of the Township Municipal Codes under which the ASES as constructed. Failure of the Property Owner of record Landowner to maintain the ASES in good working order is grounds for appropriate enforcement actions by the Township in accordance with applicable ordinances.
- 5) All on-Site Utility, transmission lines, and plumbing shall be placed underground to the extent feasible.
- 6) The Owner of an ASES shall provide the Township written confirmation that the Public Utility company to which the ASES will be connected has been informed of the customer's intent to install a grid connection system and approved such connection. Off-grid systems shall be exempt from this requirement.
- 7) The display of advertising is prohibited except for reasonable identification of the Manufacturer of the system.
- 8) Glare.
  - a) All ASES shall be placed such that concentrated solar radiation or glare does not project onto nearby Structures or Roadways.
  - b) The Applicant has the burden of proving that any glare produced does not have significant adverse impact on neighboring or adjacent uses either through siting or mitigation.
  - c) Prior to the issuance of a Zoning Permit, Applicants must acknowledge in writing that the issuing of said permit for a Solar Energy System shall not and does not create in the property Owner, its, his, her or their successors and assigns in title or, create in the property itself; (a) the right to remain free of shadows and/or Obstructions to solar energy caused by Development of adjoining or other property or the growth of any trees or vegetation on such property; or (b) the right to prohibit the Development on or growth of any trees or vegetation on such property; or (c) the right to prohibit the Development on or growth of any trees or vegetation on such property.
- 9) Decommissioning.
  - a) Each ASES and all solar Related Equipment shall be removed within 12 months of the date when the Use has been discontinued or abandoned by system Owner and/or operator, or upon termination of the useful life of same.
  - b) The ASES shall be presumed to be discontinued or abandoned if no electricity is generated by such solar collector for a period of 12 continuous months.

10) Permit Requirements.

- a) Zoning Permit applications shall document compliance with this Part and shall be accompanied by drawings showing the location of the system on the Building or property, including property lines. Permits must be kept on the Premises where the ASES is constructed.
- b) The Zoning/Building permit shall be revoked if the ASES, whether new or pre-existing, is moved or otherwise altered, either intentionally or by natural forces, in a manner which causes the ASES not to be in conformity with this Chapter.
- c) The ASES must be properly maintained and be kept free from all hazards, including but not limited to, faulty wiring, loose fastenings, being in an unsafe condition or detrimental to Public health, safety or general welfare. In the event of a violation or any of the foregoing provisions, the Zoning Officer shall give written notice specifying the violation to the Owner or the ASES to conform or to remove the ASES.
- d) A Roof mounted or wall mounted ASES may be located on a principal or Accessory Building.
- e) Solar panels shall not extend beyond any portion of the Roof edge.
- f) Roof mounted solar panels shall be located only on rear or side-facing Roofs as viewed from any adjacent Street unless the Applicant demonstrates that, due to solar access limitations, no location exists other than the Street-facing Roof, where the Solar Energy System can perform effectively.
- g) The Applicant shall provide evidence that the plans comply with the UCC and adopted Building code of the Township that the Roof or wall is capable of holding the load imposed on the Structure.

Q. Transit Bus Stop, On-Site. The following Use regulations apply:

- 1) Bus stop infrastructure, including ADA loading pads, bus passenger benches, and bus shelters, as well as bus stop location Signs and bus stop passenger information Signs, shall be permitted by-right in all Zoning districts and shall be considered an Accessory Use or Structure that can stand alone without the accompanying Principal Use.
- 2) Bus stop infrastructure shall be exempt from minimum Lot size, Open Space, and Setback requirements of the governing Zoning district(s).
- 3) The location and design of the bus stop infrastructure shall be reviewed and approved by the applicable transit agency and Township. The transit agency shall provide written documentation certifying that a location is an existing or potential future bus stop.
- 4) Whenever an ADA loading pad, bench for a bus stop, or bus shelter is provided, the applicable off-Street parking requirements for the Lot's Principal Use may be reduced by one vehicular Parking Space per amenity up to a maximum three space reduction for each bus stop location.
- 5) Bus stop location Signs and bus stop passenger information Signs installed and maintained by the transit agency shall be permitted within the Public Right-Of-Way and on private property.

R. Wind Energy System, Accessory. The following Use regulations apply:

- 1) General. Accessory Wind Energy Systems (AWES) shall be permitted as an accessory use in all Zoning districts subject to the following conditions:

- a) Maximum Number Permitted. Only one ground mounted AWES and one Building mounted AWES is permitted on a Lot.
  - b) Noise Performance Standards. The Noise performance standards specified under [§200-411-E.9a, Wind Energy System, Principle](#), of this Chapter shall apply.
  - c) When an Accessory Building is necessary for storage or related mechanical equipment, the Accessory Building shall comply with the Accessory Building requirements of the underlying Zoning district.
  - d) The Structure supporting the wind rotor unit, including any necessary guideposts and supporting cables, shall be independent of any occupied Structure and located a minimum distance of the supporting Structure Height plus 10 feet from any occupied dwelling, and shall not be more than one and one half times the maximum Principal Building Height limits specified for the applicable Zoning districts under [Article III, Districts](#), of this Chapter.
  - e) The minimum distance between the tower and any property line shall be not less than two times the Height of the supporting Structure.
  - f) The minimum distance between Grade and the lowest point of the rotor blade shall be 20 feet.
  - g) All electric line/Utility wires shall be buried underground.
  - h) Any mechanical equipment associated and necessary for operations, including a Building for batteries and storage cells, shall be enclosed with a six foot high fence. The supporting Structure shall also be enclosed with a six foot fence unless the base of the tower is not climbable for a distance of 12 feet.
  - i) When a Building is necessary for storage cells or related mechanical equipment, the Building shall not exceed 140 square feet in area, nor eight feet in Height and shall be located at the base of the supporting Structure.
  - j) The resultant energy harnessed from the wind shall be used on the property it is located on and not used as a Commercial enterprise.
  - k) The supporting Structure and generating unit shall be kept in good Repair and sound condition. Upon Abandonment of Use, the supporting Structure and related Structures shall be dismantled and removed from the property within 60 days.
- 2) Decommissioning.
    - a) Each AWES and Related Equipment shall be removed within 12 months of the date when the use has been discontinued or abandoned by system Owner and/or operator, or upon termination of the useful life of same.
    - b) The AWES shall be presumed to be discontinued or abandoned if no electricity is generated by such AWES for a period of 12 continuous months.
  - 3) Maintenance. The AWES shall be properly maintained and be kept free from all hazards, including but not limited to, faulty wiring, loose fastenings, being in an unsafe condition or detrimental to Public health, safety or general welfare. In the event of a violation of any of the foregoing provisions, the Zoning Officer shall give written notice specifying the violation to the Owner of the AWES to conform or to remove the AWES.
  - 4) Requirements for Ground Mounted AWES.

- a) Ground mounted AWES may be placed on Lots of any size assuming they meet the requirements of this section.
  - b) Height.
    - (i) AWES Height shall not be restricted assuming that the AWES meets the Setback requirements
    - (ii) The minimum ground clearance for the AWES shall be 15 feet.
  - c) Setbacks. All AWES shall be set back from property lines, occupied Buildings, above ground Utility lines, railroads and/or Road Right-Of-Way by a distance equal to no less than one times the total Height.
  - d) Number. One ground mounted AWES is permitted per Lot.
  - e) Location.
    - (i) Ground mounted AWES are prohibited in front Yards, between the Principal Building and the Public Street.
    - (ii) Installation of a ground mounted AWES may be authorized in front of the Principal Building, outside the required front Yard, if the Applicant demonstrates to the Zoning Hearing Board through a Special Exception that, due to wind access limitations, no location exists on the property other than the front Yard where the AWES can perform effectively.
  - f) Safety and Security.
    - (i) The Owner shall post electrical hazard warning Signs on or near the AWES.
    - (ii) Ground mounted AWES shall not be climbable up to (15) feet above ground surface.
    - (iii) Access doors to any AWES electrical equipment shall be locked to prevent entry by unauthorized Persons.
- 5) Requirements for Building Mounted AWES.
- a) Building mounted AWES may be located on any Lot regardless of size.
  - b) Height regulations shall not apply to Building mounted AWES, provided the Height does not exceed the limitations of the Zoning district for which they are located.
  - c) There is no limit on the number of Building mounted AWES.
  - d) Other General Requirements.
    - (i) The display of advertising is prohibited except for identification of the Manufacturer of the system.
    - (ii) AWES shall not be lighted except for any lighting required to comply with Federal Aviation Administration (FAA) or Pennsylvania Department of Transportation Bureau of Aviation (BOA) regulations
    - (iii) AWES shall be painted a non-reflective, flat color such as white, off white or gray unless required to be colored differently from FAA or BOA regulations.
    - (iv) AWES shall have an automatic braking, governing or feathering system to prevent uncontrolled rotation, over speeding and excessive pressure on the tower Structure, rotor blades and turbine components.
    - (v) An AWES shall not cause shadow flicker on any occupied Building on a non-participating Landowner's property.

- (vi) No part of any AWES shall be located within or above the required Setbacks of any Lot, extend over parking areas, Access Drives, Driveways, Shared Use Pathways, or sidewalks.
- (vii) The Owner of the AWES shall provide evidence that the Owner's insurance policy has been endorsed to cover an appropriate level of damage or injury that might result from the installation and operation of the wind energy facility.

#### § 200-414 Supplement Temporary Uses Regulations

##### A. General.

- 1) Temporary Uses are limited to those expressly regulated in this Chapter as well as those that in the Determination of the Township Supervisors are deemed appropriate as a Temporary Use.
- 2) A Temporary Use that is conducted annually or on a similar recurring basis as determined by the Township and has received Special Exception approval from the Township Zoning Hearing Board. The temporary Use may be permitted to recur thereafter with approval from the Zoning Officer provided that the event location, format, and operations have not substantially changed from the original approval and that the conditions established in the original approval are deemed applicable. All other Temporary Uses shall receive Special Exception approval for each occurrence.

##### B. Farmers Market. The following Use regulations apply:

- 1) The Applicant shall indemnify, save harmless, and defend (if requested) the Township and the Owner(s) of any private or Public property upon which the Farmers Market will be held and their respective officers, agents, and employees from any and all claims, suits, or actions for injuries, death and/or property damage arising out of the Temporary Outdoor Event where the claim, suit, or action was caused by the Applicant, its officers, agents, and employees, the event participants, support staffs, event officials, volunteers, medical support, technical support, media Vehicles, event communications staffs, the traveling Public, general Public, or spectators.
- 2) A certificate of insurance must be provided showing: (a) general liability insurance for bodily injury and property damage in the minimum amount of \$250,000.00 per Person and \$1,000,000.00 per occurrence to cover any loss that might occur as a result of the Permitted use of the local and state rights of way or private property that might otherwise arise out of or be connected with the Farmers Market; (b) occurrence-based coverage; and (c) the Township and applicable Public and private Landowner s named as the additional insured. The Applicant warrants the information in the insurance certificate is accurate.
- 3) Written permission for use of any private property must be obtained from the Owner(s), or other Person with authority to grant same, and be submitted to the Zoning Officer.
- 4) The farmers' market is of a temporary nature, namely, in operation only one day or two days per week between the maximum hours of 8 AM and 8 PM.
- 5) Farmers Market Vendors must obtain a Retail Food License from the Pennsylvania Department of Agriculture to operate a food facility at a farmers' market, whether the market is inside or outside. Each individual stand is considered its own retail food facility and must obtain its own license to operate.

- C. Mobile Food Facility. The following Use regulations apply:
- 1) Physically locates at one Site or location for no more than 14 consecutive days, in one calendar year, regardless of whether or not the facility operates continuously during that time period.
  - 2) Information on the disposal of waste and refuse shall be provided to the Zoning Officer. No approvals shall be granted nor permits issued until proper waste and refuse disposal procedures are demonstrated to be followed. Improper waste and refuse disposal shall serve as a reason for the revocation of granted approvals.
- D. Open Air Market. The following Use regulations apply:
- 1) A plan depicting the layout of the Site, including dimensions, of the sales area, accessways, parking areas and location of trash receptacles;
  - 2) Specific days and hours of operation; and
  - 3) The means, such as stalls, tables or other Structures, by which merchandise is to be displayed.
  - 4) There shall be no less than one trash receptacle per 1,000 feet of sales area, all trash receptacles shall be emptied regularly so as not to overflow, and litter and debris shall not be permitted to accumulate.
  - 5) Merchandise, stalls or other materials shall not be stored outdoors while the use is not open for business.
  - 6) Operation shall be restricted to the time between 9:00 AM to 5:00 PM prevailing time.
  - 7) The operation shall not disturb the tranquility of residential areas or other areas in close proximity or otherwise interfere with the reasonable use and enjoyment of neighboring property by reason of excessive Noise, traffic or overflow parking.
- E. Temporary Construction Site Trailer. The following Use regulations apply:
- 1) Temporary Construction Site Trailers may be established via the Township Zoning Permit process, when proposed for an approved Construction project.
  - 2) Temporary Construction Site Trailers shall observe the minimum Setback requirements imposed upon the Township approved Principal Use of the subject Lot.
  - 3) Temporary Construction Site Trailers shall not serve as sleeping quarters.
  - 4) Temporary Construction Site Trailers when used as occupied contractor, lease or sales offices shall be equipped with appropriate skirting or safety fence/mesh material to prevent children and animals from crawling under said Structure.
  - 5) A Temporary Construction Site Trailer may serve as a temporary lease or sales office until a model housing unit is complete, provided the temporary sales operation shall only be permitted between 8:00 AM to 5 PM EST.
  - 7) If restroom facilities do not exist in the Temporary Construction Site Trailer, portable toilets shall be provided; the number of which shall be as determined by the Township Sewage Enforcement Officer.
  - 8) No combustible materials shall be stored in the Temporary Construction Site Trailer.

- 9) All Temporary Construction Site Trailers shall be removed within 48 hours of the completion of Construction or the expiration of the Zoning Permit for the Construction to which it is related, whichever occurs first.

F. Temporary Outdoor Event. The following Use regulations apply:

- 1) The Applicant should obtain a permit required by **Chapter 163, Special Events.**
- 2) The Applicant shall indemnify, save harmless, and defend (if requested) the Township and the Owner(s) of any private or Public property upon which the event/activity will be held and their respective officers, agents, and employees from any and all claims, suits, or actions for injuries, death and/or property damage arising out of the Temporary Outdoor Event where the claim, suit, or action was caused by the Applicant, its officers, agents, and employees, the event participants, support staffs, event officials, volunteers, medical support, technical support, media Vehicles, event communications staffs, the traveling Public, general Public, or spectators.
- 3) The event location or route shall be appropriately secured with proper security and safety measures taken to protect the event participants, support staffs, event officials, volunteers, medical support, technical support, media Vehicles, Vehicle escort services, maintenance and Protection services, the traveling Public, event communications staffs, the general Public, and spectators. Proper Emergency medical services shall be provided. Local fire departments, the general Public, and the traveling Public shall be notified in advance of the event.
- 4) Written authorization from the Pennsylvania Department of Transportation (PennDOT) via a Special Event Permit granting the Applicant permission to Use the Right-Of-Way of a state roadway. The Applicant shall provide the Township with a complete copy of the Special Event Permit and associated documentation. All information shall be submitted to the Zoning Officer.
- 5) Written permission for use of any private property must be obtained from the Owner(s), or other Person with authority to grant same, and be submitted to the Zoning Officer.

## Article V – Historic Preservation

### § 200-501 Applicability

- A. Purpose. The purposes of this Article are to:
- 1) Protect Historic Resources in New Garden Township as authorized under the Pennsylvania Constitution, Article I, § 27, and §§ 604 and 605 of the Pennsylvania Municipalities Planning Code, 53 P.S. §§ 10604 and 10605;
  - 2) Identify all Buildings and Structures which are important to the culture, history, and tradition of the community members of New Garden Township (hereafter "Historic Resource(s)") and to create an Historic Resources Map designating the categories of all such identified Historic Resources;
  - 3) Confirm the establishment of an Historical Commission in and for New Garden Township;
  - 4) Establish a process by which proposed changes or Demolition affecting Historic Resources are reviewed by both the New Garden Township Historical Commission and the New Garden Township Board of Supervisors; and
  - 5) Encourage the continued use and Preservation of Historic Resources consistent with preserving the historic character of those resources and to facilitate their appropriate reuse.
- B. Compliance. Any Demolition, rehabilitation, Enlargement, Alteration or relocation of an Historic Resource shown on the Historic Resources Map shall occur only in full compliance with the terms of this article and other applicable regulations. For any Historic Resource shown on the Historic Resources Map, the requirements of this Chapter shall apply, in addition to applicable Zoning and other ordinances.
- C. Preservation of other restrictions. It is not intended by this article to repeal, abrogate or impair any existing Easements, covenants or deed restrictions.
- D. Definitions. As used in this article, the following terms shall have the meanings indicated:
- 1) ADAPTIVE REUSE — An Historic Resource which undergoes a process of rehabilitation, thus making possible a compatible new use for the property through Repair, Alteration and Additions which retain the historic character of the property by retention of distinctive material and features of the Structure which convey its historical cultural or architectural value.
  - 2) CONVERSION — An Alteration of an Historic Resource by change of use theretofore existing to a new use which imposes other special provisions of law governing adaptive reuse rehabilitation and Zoning regulations.
  - 3) CONVERSION, RESIDENTIAL — A change in Density and dwelling type of an existing Historic Resource by creating Party Walls and independent cooking, eating, bathing, housekeeping and sleeping areas, and thus creating a Building containing two or more Dwelling Units with independent or common outside access.
  - 4) DEMOLITION BY NEGLIGENCE. The absence of routine maintenance and repair which can lead to structural weakness, decay, and deterioration of building elements or structure as a whole that may contribute to and/or necessitate its demolition.
  - 5) HISTORIC RESOURCE — Any Building or Structure which historically is representative and contributing to an understanding of the broad patterns of local, state or national history and identified as an Historic Resource on the Historic Resources Map adopted by this Article.

- 6) HISTORIC RESOURCES MAP — The map and supporting materials more particularly described herein.
- 7) REHABILITATION — The process of returning an Historic Resource to a state of Utility through Repair or Alteration, which makes possible an efficient contemporary use while preserving those portions and features of the resource which are significant to its historical, architectural and cultural values.

#### § 200-502 Historic Resources List and Map

- A. Historic Resources Map. The Board of Supervisors authorizes the research and creation of an Historic Resources Map for the Township ("Map"). The Map shall locate and identify all Historic Resources located within New Garden Township. The Map, as amended, shall be retained in the records of the Township at the Township office.
- B. Classifications. The Map shall delineate one classification of Historic Resources located in the Township. These resources are those Historic Resources designated by the Township as meriting a review prior to the Township issuing a permit for any relocation, rehabilitation, Enlargement, Alteration or Demolition. Such Historic Resources shall:
  - 1) Have been constructed, or had any portion thereof constructed at least 50 years prior to the adoption of the Ordinance or Amendment to this Article; and
  - 2) Have significant character, interest or value as an example of built heritage (Building, Site, or group of Buildings with historic, artistic, aesthetic, ethnological, scientific, and/or social significance); or
  - 3) Reflect the environment in an era of history characterized by a distinctive architectural style; or
  - 4) Have an association with an event or Person important to the history of the Township; or
  - 5) Embody distinguishing characteristics of an architectural style or engineering specimen.
- C. Revisions.
  - 1) By March 1 of each year, the Township shall review the Historic Resources Map.
    - a) The Township shall issue written notice to all property owners of a Historic Resource informing them that their property is an identified Historic Resource and subject to the provisions of this Article.
    - b) If the Township determines that a property should be removed from the list, a written notice to the property owner shall be issued. The property owner can appeal the decision to the Zoning Hearing Board per Article I, Administration, of this Chapter.
  - 2) The Historic Resources Map may be revised by resolution or other action of the Board of Supervisors.
  - 3) Official List. An official list of all Historic Resources regulated hereunder, showing the classification of each resource, shall be maintained by the Township Historical Commission and staff and be updated on a regular basis to reflect any changes in classifications.

#### § 200-503 Historical Commission

- A. Membership.
  - 1) There shall be a Historical Commission, which shall consist of not less than five members who shall be appointed by the Board of Supervisors.

- 2) The membership of the Commission shall meet the requirements as may be established from time to time by the Board of Supervisors. All members shall be residents of the Township.
  - 3) Each Commission member shall serve for a term of three years. The Board of Supervisors shall fill any vacancies in the Commission. Appointments to fill vacancies for unexpired terms shall be only for the unexpired portion of the term. Members may be reappointed for successive three- year terms.
- B. Organization. The Commission shall annually elect a Chairman who will direct activities of the Commission. The Commission shall conduct business at regular Public Meetings. The Commission shall keep minutes of its meetings, Public records of its business and shall submit a Report of its activities to the Board of Supervisors by March 1 of each year.
- C. Powers. Powers allocated to the New Garden Township Historical Commission shall include:
- 1) Review of proposed rehabilitations, Enlargements, Alterations, Demolition, Landscaping, Buffering, modifications to bulk and area or use regulations and relocation of an Historic Resource.
  - 2) Review of and recommendations with regard to, revisions or updates to the Historic Resources Map and Subdivision or Zoning applications involving impacts upon an identified Historic Resource.

#### § 200-504 Review Procedures

- A. Building, Zoning and other permits. No Building permit, Zoning permit or other permit for the relocation, rehabilitation, Enlargement or Alteration of an Historic Resource shall be issued by the Zoning Officer until the New Garden Historical Commission has reviewed and commented thereon as herein set forth.
- B. Zoning Officer. The Zoning Officer shall provide the Historical Commission with a complete copy of the permit application, together with any plans or diagrams required by this article, within five working days of receipt of a completed application.
- C. Historical Commission. The Commission shall, within 30 days of receipt of the application from the Zoning Officer, review the plans for compliance with the standards contained herein and prepare a written Report to the Zoning Officer, with a copy to be sent to the Applicant, indicating whether the plans are in substantial compliance with the provisions hereof. The Report shall make written suggestions as to what specific changes in the plans would bring them into substantial compliance.
- 1) Requirement of good faith. The Applicant shall work, in good faith, with the Historical Commission to evaluate the Historical Commission's recommendations for changes in the application needed to bring the application in substantial compliance with this article.
- D. Issuance of Building/Zoning permit. Upon receiving a Report of substantial compliance from the Historical Commission, and provided that the plans satisfy all other requirements of the Township, the Zoning Officer shall issue appropriate permit(s).

- E. Delay or denial of a Building/Zoning permit. If the Historical Commission's Report indicates that the plans are not in substantial compliance with the standards contained herein, the Zoning Officer shall not issue permits until:
- 1) The plans have been revised by the Applicant in accordance with the Historical Commission's recommendations; or
  - 2) The Historical Commission documents a compromise that has been worked out with the Applicant; or
  - 3) Ninety days have elapsed from the date of the filing of the completed application with the Township, and the Applicant has advised the Zoning Officer and the Board of Supervisors, at a Public Meeting, that the recommendations of the Historical Commission will not be implemented.

### § 200-505 Allowable Dimensional and Use Regulations Modifications

- A. Applicability and Purpose. In the interest of preserving the Township's Historic Resources and the historic context of these resources, and to encourage appropriate use and reuse of an Historic Resource, modifications to the Lot size, dimension and Yard size and/or use may be permitted, by the Board of Supervisors, through the grant of a Conditional Use, provided the standards, conditions and procedures of this section are met.
- B. Procedures. The Zoning Officer shall provide a copy of the plan to the Historical Commission which shall issue its recommendation to the Board of Supervisors within 45 days and whose Report shall be admissible into evidence at a Conditional Use Hearing.
- C. Dimensional Modifications.
- 1) Lot standards. The Lot sizes authorized in [Article III, Districts](#), may be adjusted downward for an identified Township Historic Resource in cases where the Historic Resource contains one or more contributing Structures to accommodate conversion of these Structures to residential use to preserve the integrity of the Historic Resource.
  - 2) Number of dwellings. An Additional Dwelling Unit may be created in excess of the maximum number of Dwelling Units otherwise permissible under [Article III, Districts](#), for each contributing Structure in a Township Historic Resource to be preserved as a Dwelling Unit.
  - 3) Setbacks. Setback requirements may be modified, if necessary, to preserve the integrity of an identified Historic Resource.
- D. Use Modifications for Adaptive Reuse or Conversion.
- 1) Bed-and-breakfast. Conversion to a bed-and-breakfast use of an Historic Resource or contributing Structure may be allowed even if the Building is not a Single-Unit Dwelling or does not meet the minimum Lot size and Setback requirements of the Zoning Ordinance.
  - 2) Residential Use. Conversion of a currently non-Residential Historic Resource (e.g., barn, springhouse, etc.) into residential use may be allowed even if the Lot does not meet the size requirement of the base Zoning.
  - 3) Office. Conversion to an office use of an Historic Resource may be allowed in a residential area without requiring all of the constraints of a home business.

### § 200-506 Landscaping

When an Historic Resource is located within a tract proposed for Subdivision or Land Development, a landscape plan for the grounds surrounding the Historic Resource shall be required by the Township as part of the preliminary plan submission.

- A. The plan shall be prepared by a registered landscape architect or by a nurseryman or other individual deemed qualified by the Board of Supervisors.
- B. The plan shall show all pertinent information, including the location, size and species of all individual trees and shrubs to be removed, planted or preserved.
- C. Through screening, Buffering and selection of plant material, the plan shall minimize the impact of the proposed Development on the Historic Resource and protect its integrity of setting and any significant vegetation.
- D. The landscape plan shall be submitted to the New Garden Historical Commission for its review and comments prior to any Decision by the Board of Supervisors on the Subdivision or Land Development plan.

### § 200-507 Design Standards

- A. New Garden Township strongly recommends that any proposed rehabilitation, Alteration or Enlargement of an Historic Resource be in substantial compliance with the standards for rehabilitation which are then currently adopted by the Township. At the time of enactment of this article, those standards are as printed in the Secretary of the Interior's Standards for the Treatment of Historic Properties, attached hereto and incorporated herein. The standards for rehabilitation, Alteration or Enlargement of Historic Resources may be amended from time to time by resolution of the Township.
- B. Property Owners are required to keep their properties in a state of good Repair.
- C. For an application to rehabilitate, alter or enlarge an Historic Resource to be eligible for any allowable use or dimensional regulations as described in [§200-505, Allowable Dimensional and Use Regulations Modifications](#), it shall meet the following standards:
  - 1) Floor Area. No Historic Resource may be enlarged beyond what is minimally necessary to accommodate the expanded use.
  - 2) Additions. For an Historic Resource, an Addition shall only be permitted if it does not negatively impact the front or major Facade of the Historic Resource.
  - 3) Signs. Signs for Historic Resources shall adhere to the following standards:
    - a) Number. No more than one Sign may be erected on any one Street Frontage of any Lot.
    - b) Format.
      - (1) A Sign may be placed flat upon the wall of the Building to which it relates or constitute part of the architectural design of such Building; the size of such Sign shall not exceed 10 square feet; or
      - (2) A Sign may project from the Building to which it relates a maximum of six feet; such Sign shall be limited to two faces and shall not exceed 10 square feet per face; or

- (3) A Sign may be freestanding, with two faces, with an area not exceeding 10 square feet per face, with the top of the Sign not to exceed eight feet from the ground level.
- c) Lighting.
  - (1) Freestanding Signs shall only be illuminated from ground level.
  - (2) Internally-illuminated and digital Signs are not permitted.
- d) Materials. Use high-quality and durable materials. Wood was the most common material historically for Signs, especially projecting and hanging Signs, and is appropriate. Metal brackets and hardware are appropriate. Metal lettering and Signs, pigmented glass, and painted lettering are also appropriate. Avoid vinyl and plastic lettering.

#### § 200-508 Relocation of Historic Resources

In the case of a proposed relocation of an Historic Resource, the Historical Commission shall consider whether or not:

- A. The proposed relocation will have a detrimental effect on the Historic Resource;
- B. The proposed relocation will provide an environment that will be a compatible cultural landscape, that is, one that is harmonious with the historic and/or architectural aspects of the Building or Structure;
- C. The proposed relocation will further the achievement of the purposes described herein.

#### § 200-509 Procedures for Demolition of Historic Resources

No Historic Resource may be Demolished until the Applicant obtains a permit and complies with the following additional procedures.

- A. Application. The Applicant shall file with the Zoning Officer, who shall forward the same to the Historical Commission within five working days, the following items:
  - 1) One copy of the application for Demolition;
  - 2) Complete documentation of the resource proposed for Demolition, including recent interior and exterior photographs, exterior measurements and plans of each level;
    - a) Photographs should meet the requirements of the Historic American Buildings Survey (HABS) and Historic American Engineering Record (HAER).
  - 3) A Site plan showing all Buildings on the property; and
  - 4) An explanation of the reasons for Demolition and the future use of the Site. This must include:
    - a) A statement, prepared by a Registered Design Professional, of whether the property is capable of generating a reasonable return with the resource left in place including evidence of a good-faith attempt to sell documented by proof of property listing for a period of time;
    - b) A statement of whether the resource is adaptable to some other use which would result in a reasonable return;
    - c) A financial statement of whether Rental or other use of the property in its current or an improved condition can provide a reasonable rate of return;
    - d) A statement that a demonstrable, good-faith attempt has been made to sell the resource to someone interested in preserving it; and
    - e) A proposed Site plan for Development after the Demolition.

- 5) No permit for Demolition may be issued until the Applicant has obtained Township approval of plans for the Development.
- B. Documentation Field Visit. Within 30 days of the Township's receipt of a completed application for Demolition of any Historic Resource, the Applicant shall permit the Historical Commission or representative designated by the Historical Commission, at a mutually agreeable time and date, to enter the Historic Resource and document, for the Township records, the Historic Resource and the property associated therewith. Such documentation may include but is not limited to photographic and video documentation. Documentation authorized by this section shall be conducted on a date and time agreeable to both the Historical Commission and the Applicant. All such documentation shall become the property of the Township. The Historical Commission will not disturb or move any personal property of the Applicant during such documentation.
- C. Review Meeting. Within 45 days of receipt of a complete application, the Historical Commission shall, at a regular or special meeting, review the application for Demolition. The Applicant will be notified, in writing, of the meeting and encouraged to present written and photographic evidence in support of his application. In reviewing the application, the Historical Commission shall take into account:
- 1) The effect of Demolition on the historical significance and architectural integrity of neighboring contributing Historic Resources;
  - 2) Economic feasibility of adaptively reusing the resource proposed for Demolition;
  - 3) All conceivable alternatives to Demolition of the resource, including relocation of the Structure;
  - 4) Any expert testimony, such as, but not limited to, certified engineering Reports regarding the structural stability of the resource that would indicate threats to Public safety.
- D. Written Recommendation. Within 15 days following conclusion of the review meeting, the Historical Commission shall set forth its recommendation in a written Report to the Board of Supervisors and the Applicant.
- 1) In specific cases, as will not be contrary to the Public interest, where, owing to demonstrated special conditions, as determined herein, a literal enforcement of the provisions of this section would result in unnecessary hardship, the Historical Commission may recommend that the Board grant an exemption from the requirements of this section, subject to such terms and conditions as the Historical Commission may recommend so that the spirit of this article shall be observed and substantial justice done.
  - 2) Every recommendation of the Historical Commission shall be in writing and shall state the reasons for the Decision. The Decision shall contain the findings of fact that constitute the basis for the Decision. In any case where the Historical Commission objects to the issuance of a permit required under this section, the Historical Commission shall furnish the Applicant with a copy of the Historical Commission's Decision, together with a copy of any recommendations the Historical Commission may have made for changes necessary to be made before the application will be reconsidered by the Historical Commission.
  - 3) In case of hardship, the Historical Commission may contribute to the documentation prescribed by the Board.

- E. Board of Supervisors Response. Within 45 days of the review of the demolition application by the Historical Commission, or such extended time as may be agreed by the Applicant, the Board of Supervisors shall consider the application for demolition at a public meeting. The Applicant will be notified of the meeting and encouraged to present written and photographic evidence of testimony pertaining to the demolition. The Board shall vote to approve the application with or without conditions or deny the application.
- F. Demolition by Neglect.
- 1) Neither the owner of nor the person in charge of an officially designated resource on the Historic Resources Map shall permit such structure or property to fall into a state of disrepair which may result in the deterioration of any exterior appurtenance or architectural feature so as to produce or tend to produce, in the judgment of the appropriate board, a detrimental effect upon the life and character of the structure or property as a whole, including but not limited to:
    - a) The deterioration of exterior walls or other vertical supports;
    - b) The deterioration of roofs or other horizontal members;
    - c) The deterioration of exterior chimneys;
    - d) The deterioration of crumbling of exterior plasters or mortar;
    - e) The ineffective waterproofing of exterior walls, roofs and foundations, including broken windows or doors;
    - f) The peeling of paint, rotting, holes and other forms of decay;
    - g) The lack of maintenance of surrounding environment, e.g., fences, gates, sidewalks, street signs, accessory structures and landscaping;
    - h) The deterioration of any feature so as to create or permit the creation of any hazardous or unsafe condition or conditions.
  - 2) Demolition by neglect shall not be used as an automatic excuse by an applicant as justification for an active demolition application.
  - 3) Enforcement and Penalties.
    - a) When an owner has held an identified Historic Resource property for at least three years and allowed the property to fall into the category of Demolition by neglect due to lack of routine maintenance and cannot provide that the negligence has occurred due to lack of financial ability to provide maintenance, such owner shall be deemed in violation of the terms of this section.
    - b) Enforcement and penalties that pertain to active Demolition shall also pertain to passive Demolition (Demolition by Neglect).

#### § 200-510 Violations, Penalties, and Appeals

- A. Violations and penalties. Any Person who violates the terms of this article shall be subject to the penalties imposed under **§200-112, Violations and Penalties**, as well as applicable penalties imposed under Township Building and fire codes.
- B. Appeal Procedures. Any Person aggrieved by a recommendation of the Historical Commission and Decision by the Board of Supervisors may, within 30 days after receiving notice of the Decision, either file an Appeal therefrom to the Zoning Hearing Board or apply for reconsideration of the initial

Decision by filing with the Zoning Officer a written notice requesting the Board to review said Decision. In such event, the Board's Decision shall be considered a final adjudication under the MPC.

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## Article VI – Natural Resource Protection

### § 200-601 Purpose

The following natural resource conservation standards are established to protect the Public health, safety, and welfare by minimizing adverse environmental impacts. These standards are intended to meet the following purposes:

- A. Define and delineate selected natural resources within the Township and establish natural resource Protection standards to assist the Township in reducing the impact proposed uses will have on such resources.
- B. Conserve valuable natural resources within the Township in accordance with the following natural resources, water resources, and recreation and Open Space goals of the 2018 New Garden Township Comprehensive Plan in the Parks and Open Space District and Residential Low-Density District and in areas with sensitive natural features as identified and defined in this Article. Goals include:
  - 1) Continue to recognize and protect the important and inherent benefits of natural resources and Open Space;
  - 2) Maintaining the rural character of the Township;
  - 3) Providing valuable ecosystem functions such as storm water and nutrient management, crop pollination, and local climate regulation; and
  - 4) Ensuring the economic viability of agriculture.
- C. To ensure that greenway areas are protected as important natural resources for the benefit of the Public and in accordance with:
  - 1) The greenways and trails goal of the 2018 New Garden Township Comprehensive Plan: Provide residents with an integrated network of greenways and trails that promote health and wellness and provide for safe, bike and pedestrian connections between neighborhoods, natural areas, schools, Commercial districts and cultural and recreational facilities, as well as provide valuable corridors for wildlife and habitat diversity.
  - 2) The 2009 New Garden Township Greenways and Phelps Property Plan.
  - 3) Smedley Preserve Master Plan.
  - 4) Any other greenway or Open Space plans or studies adopted by the Township.

### § 200-602 Applicability

- A. General. It shall be a violation of this Article to Grade, fill, pipe, divert, channel, build upon or otherwise alter or disturb a natural resource protected by this Article prior to approval of applications for permits, where applicable; Conditional Uses or special exceptions; Variances; or the approval of plans for Subdivision or Land Development.
- B. Applications. The standards in this Article shall apply to applications for permits involving:
  - 1) The Addition to any parcel of 1,000 square feet or more of Impervious Cover; or

- 2) Any Earthmoving on any parcel that disturbs 5,000 square feet or more of land, exempting outdoor agriculture and any excavation regulated or permitted under a Pennsylvania mining permit.
  - 3) Zoning Hearing Board applications for special exception or Variance.
  - 4) Applications for Conditional Use, Subdivision or Land Development.
- C. Utility Easements. Routine maintenance of Utility Easements in accordance with a recorded Easement agreement shall be exempt from the provisions of this article.

## § 200-603 Protection Standards

### A. General.

- 1) In the event the provisions of this article are in conflict with the provisions of any other Township ordinance, the most restrictive provisions shall apply.
- 2) In the event that two or more natural resource areas identified in this article overlap, the most restrictive standards associated with such resources (i.e., the least amount of permitted Alteration, grading, clearing or Building) shall apply to the area of overlap.
- 3) Protection standards in this Section shall apply:
  - a) Before, during, and after Construction on a Site.
  - b) Based on the occurrence of identified resource areas at the time of adoption of this section. Disturbance permitted over time in multiple applications on the same Lot or tract shall be measured against the same overall limitations established at the time of the first application after the adoption of this section. For example, if applicable disturbance limitations for a particular resource permit two acres of disturbance, and one acre of disturbance is permitted upon the first application after the adoption of this section, then only one acre shall remain to be permitted for future disturbance of the applicable resource regardless of the total number of applications over the years.
- 4) The inclusion of information required by [§200-604, Application of Standards](#), shall be verified as complete and correct by the Township Engineer or other qualified professional as determined by the Township.

- B. Floodplain. Areas identified as being within the boundaries of the Flood Hazard Overlay District shall comply with **Chapter 96, Floodplain Management**. Floodplains shall be indicated on the plan as required by [§200-604, Application of Standards](#).

### C. Steep and precautionary Slopes.

- 1) Steep and precautionary Slope areas shall be preserved by limiting disturbance as follows:
  - a) Precautionary Slopes. Up to 25% of the area of precautionary Slopes may be Graded, cleared, built upon or otherwise altered or disturbed.
  - b) Steep Slopes. Up to 10% of the area of steep Slopes may be Graded, cleared, built upon or otherwise altered or disturbed only for the following activities:
    - (i) Timber harvesting, when conducted in compliance with a timber harvesting plan approved by the Township. Clearcutting or grubbing of trees is prohibited on steep Slopes.

- (ii) Grading for a Driveway necessary for access to the principal use on a Lot and sewer, water and other Utility lines when it can be demonstrated that no other routing of such improvements is practicable.
  - (iii) Hiking and riding trails, where developed so as to minimize potential erosion and follow existing topographic contours to the greatest degree practicable. Except where paving is required for stability purposes, trails shall be constructed of unpaved surfaces.
- 2) A grading plan shall be provided identifying the existing contours of the Site, proposed Finished Grades, the proposed location of all Buildings and Structures, and the percent of each category of Slope to be disturbed.
- 3) Finished Slopes of permitted cut and fill shall not exceed 25%. All stockpiles of earth shall be seeded or otherwise stabilized when stored for more than 30 days.
- 4) The Applicant shall delineate the two categories of Slopes (precautionary and steep) on the plan as required by [§200-604, Application of Standards](#).

D. Wetlands.

- 1) Wetlands shall not be Graded, filled, piped, diverted, channeled, built upon or otherwise altered or disturbed except where state or federal permits have been obtained and copies thereof are submitted to the Township.
- 2) Any Applicant proposing a use, activity, or improvement which would entail the grading or placement of fill in Wetlands, shall provide the Township with proof that the Pennsylvania Department of Environmental Protection and the United States Army Corps of Engineers have been contacted to determine the applicability of state and federal wetland regulations. Any Applicant contacted by the Pennsylvania Department of Environmental Protection or the United States Army Corps of Engineers in regards to Wetlands also shall concurrently provide to the Township a copy of such correspondence.
- 3) Where permitted subject to applicable regulation and as otherwise provided herein, sewers or other liquid transport pipelines shall only be permitted to cross Wetlands on the minimum traversal distance and where every precaution shall be taken to prevent leaks and to prevent any possible draining of the wetland (e.g., water flowing through or along any pipe or trench). At the expense of the Applicant, the Township may require inspection of applicable systems and facilities, including but not limited to x-ray of steel welds and pressure Testing of pipelines.
- 4) Where wetland disturbance is permitted subject to applicable regulation on any Lot or tract, no more than 10% nor more than one acre of any wetland area, whichever is less, shall be disturbed for any purpose.
  - a) Any disturbance to or loss of natural Wetlands shall be mitigated at the rate of one times the lost or disturbed wetland area in a manner approved by the Township.
  - b) Mitigation may include creation of Wetlands which shall be hydrologically fed with stormwater discharged from an approved stormwater management facility.
    - (i) Created Wetlands may be located at a Site approved by the Township for such mitigation, whether on or off the property that contains the wetland subject to disturbance.

- c) Where approved by the Township, some or a portion of any required Wetlands mitigation, in lieu of wetland creation, may be accounted for through permanent conservation of other existing unprotected Wetlands or by restoration of former Wetlands (e.g., through removal of tile fields or other drainage facilities) by means satisfactory to the Township.
- 5) The Applicant shall delineate the limits of Wetlands on the Site in accordance with [§200-604, Application of Standards](#). In addition, the following information shall be provided
  - a) A full wetland delineation Report, conducted by a qualified wetland biologist, soil scientist, or environmental professional of demonstrated qualifications, whose qualifications shall be submitted to and subject to review and acceptance by the Township.
  - b) Such a professional shall certify that the methods used correctly reflect the currently accepted technical concepts, including identification and analysis of wetland vegetation, hydric soils, and hydrological indicators.
  - c) The wetland Report shall include a Determination of whether Wetlands are present on the Site and a full delineation, area measurement (in square feet), and description of any Wetlands determined to be present.
  - d) Where applicable, evidence that the contacts required by [§200-603-D.2](#) have been made.

E. Wetland Margins.

- 1) Except for regulated activities permitted by the commonwealth (e.g., permitted Stream or wetland crossing or other permitted disturbance), provision for unpaved trail access, selective removal of hazardous or Invasive Plant Species, or a soil conservation project approved by the Chester County Conservation District, no more than 20% of a Wetland Margin shall be Graded, filled, built upon or otherwise altered or disturbed.
- 2) The Applicant shall delineate the limits of the Wetland Margin on the Site in accordance with [§200-604, Application of Standards](#).

F. Watercourses and Riparian Buffers.

- 1) Zone One: Except for regulated activities permitted by the Commonwealth (e.g., permitted Stream or wetland crossing), provision for unpaved trail access, selective removal of hazardous or Invasive Plant Species, or a soil conservation project approved by the Chester County Conservation District, the Zone One Riparian Buffer shall not be Graded, filled, built upon or otherwise disturbed. Vegetation, except as provided for above, shall not be removed.
- 2) Zone Two: Except for the following activities, no more than 20% of a Zone Two Riparian Buffer shall be Graded, filled, built upon, or otherwise altered or disturbed:
  - a) Activities permitted in the Zone One Riparian Buffer.
  - b) Timber harvesting, when conducted in compliance with a required timber harvesting plan. Clear-cutting of timber shall not be permitted within the Riparian Buffer.
  - c) Vegetation management in accordance with an approved landscape or Open Space management plan.
- 3) The Applicant shall delineate Watercourses and Zone One and Zone Two Riparian Buffers located on the Site in accordance with [§200-604, Application of Standards](#).

G. Woodlands and hedgerows.

- 1) Disturbance allowance for Woodlands and hedgerows:
  - a) Unless undertaken as an approved timber harvesting operation conducted in compliance with the required timber harvesting plan, no more than 15% of Woodlands and hedgerows shall be Graded, cleared, built upon or otherwise altered or disturbed for any use, excluding outdoor agriculture conducted in conformance with Subsection b) below. Where woodland and hedgerows overlap other protected natural resources, the more restrictive disturbance standard shall apply. When determining the total acreage and the degree of disturbance permitted, areas of Woodlands and hedgerows shall be considered in combination as a single resource.
  - b) No more than 40% of Woodlands and hedgerows may be cleared for the purposes of clearing fields for agricultural/farm products, for outdoor agricultural uses (i.e., crop farming) and/or for the grazing of Livestock.
    - (i) The Watercourse and Riparian Buffer standards in [§200-603-F](#) above shall be met.
  - c) The requirements for removal and replacement of trees in **Chapter 170, Subdivision and Land Development Ordinance**, shall apply for all disturbance.
  - d) Preserved Woodlands and hedgerows may be incorporated in the vegetative screens and Buffers required by **Chapter 170, Subdivision and Land Development Ordinance**.
  - e) The Township may seek advice as needed from a qualified arborist to assist in the application of these woodland and tree Protection standards.
  - f) The Applicant shall delineate Woodlands and hedgerows on the plan required by [§200-604, Application of Standards](#)

H. Rare species.

- 1) With the exception of selective removal of hazardous or invasive vegetation, no rare species Site shall be Graded, filled, built upon or otherwise altered or disturbed.
- 2) A 35-foot Buffer area, minimum, shall be provided around the entire perimeter of any rare species Site within which no Land Disturbance shall be permitted. Said Buffer area shall be increased if any federal or state agency requires a larger Buffer area.
- 3) The Applicant shall delineate rare species areas on the plan required by [§200-604, Application of Standards](#).

I. Exceptional natural areas.

- 1) With the exception of those uses or activities listed below, and where not otherwise regulated more restrictively under the provisions of this Chapter, no more than 10% of any exceptional natural area shall be Graded, filled, built upon or otherwise altered or disturbed, except for the following purposes:
  - a) Regulated activities permitted by the Commonwealth (i.e., permitted Stream or wetland crossing);
  - b) Provision for trails;

- c) Selective removal of hazardous or invasive vegetation; or
  - d) Vegetation management in accordance with an approved landscape plan or Open Space management plan.
- 2) The Applicant shall identify exceptional natural areas on the plan required by [§200-604, Application of Standards](#).

§ 200-604 Application of Standards

A. Delineation of resources and plan information. In order to ensure compliance with the natural resource Protection standards of this article, the following information shall be submitted for all applications subject to [§200-602, Applicability](#).

- 1) A Site plan, complying with the drafting standards in **Chapter 170, Subdivision and Land Development Ordinance** and the Site analysis plan in **Chapter 170, Subdivision and Land Development Ordinance**, and which delineates the limits of all natural resources on the Site as regulated by this article and the proposed use of the Site including any existing or proposed Structures.
- 2) The limits of all encroachments and disturbances necessary to establish the proposed use on the Site, including a grading plan showing existing and proposed contours.
- 3) The maximum buildable area and any areas reserved for on-Lot sewage systems, as described in Subsection B, below.
- 4) Calculations indicating the area of the Site with natural resources and the area of natural resources that would be disturbed or encroached upon. The calculations shall be shown on the plan in table format, as demonstrated in [Figure 200-6-1, Natural Resources Calculations Table](#).

Figure 200-6-1, Natural Resources Calculations Table

Protected Resource <sup>1</sup>	a) Amount of Land in Protected Resource (square feet)	b) Maximum Disturbance Allowance (percent)	c) Maximum Area of Permitted Disturbance (square feet)	d) Proposed Area of Resource Disturbance (square feet)
<b>Floodplain</b>		0%		
<b>Slopes</b>				
Steep (over 25%)		10%		
Precautionary (15-25%)		25%		
<b>Wetlands</b>		0%		
<b>Wetland Margins</b>		20%		
<b>Watercourses &amp; Riparian Buffers</b>				
Zone 1 Buffers		0%		
Zone 2 Buffers		20%		
<b>Woodlands &amp; hedgerows</b>				
All uses, excluding agriculture		15%		
Agriculture		40%		
<b>Rare species</b>		0%		
<b>Exceptional natural areas</b>		10%		
<b>Total</b>				

<sup>1</sup> Where resources overlap, the overlapping area should be included for the more restrictive resource category.

B. Maximum buildable area.

- 1) Purpose. The identification of a maximum buildable area serves to ensure that sufficient area is provided for the general location of the Building, Driveway, patio, on-Lot sewage facilities (where applicable) and other necessary improvements and Site Alterations while meeting the natural resource Protection standards of this article.
- 2) Building Area delineation. The Applicant shall delineate on the plan a contiguous buildable area, free of protected resources, sufficient in size to accommodate proposed Site improvements and which complies with the disturbance limitations of this article and other applicable codes and ordinances.
- 3) On-Lot sewage facilities delineation. For uses with individual on-Lot sewage systems, the primary sewage system and a reserve or replacement area as required by the Chester County Health Department and Pennsylvania Sewage Facilities Act shall be identified, in addition to the minimum buildable area specified in **Subsection B.2** above. Such areas shall not include the portion of those Environmentally Sensitive Areas that may not be developed or intruded upon as specified in [§200-603, Protection Standards](#).

C. Continued Protection of identified natural resources. In order to ensure the continued Protection of natural resources, the following requirements shall apply to Zoning Hearing Board applications for special exception or Variance, and to applications for Conditional Use, Subdivision and Land Development:

- 1) Protected resources areas on individual Lots:
  - a) For resource Protection areas on individual Lots, restrictions meeting Township specifications shall be placed in deeds for each Site or Lot that has resource Protection areas within its boundaries. Such restrictions shall also be included on the final recorded Subdivision or Land Development plan when applicable.
  - b) Deeds shall clearly state that the maintenance responsibility lies with the individual property owner. The restrictions shall provide for the continuance of the resource Protection areas in accordance with provision of this article.
  - c) Other mechanisms for ensuring the continued Protection of identified resources may also be considered and used if approved by the Township.
- 2) Protected resource areas held in common. Such resources shall be protected in accordance with [§200-605, Open Space Requirements](#).

D. Modification to natural resource Protection standards.

- 1) For any use or activity subject to Subdivision or Land Development review, modifications to the natural resource Protection standards of [§200-603, Protection Standards](#), may be requested as part of such application, which modifications may be granted by the Board of Supervisors pursuant to the provisions of **Chapter 170, Subdivision and Land Development Ordinance**, and subject to **Subsection D.4** below.
- 2) For permit applications subject to compliance with this Article, the Township Zoning Officer may waive the requirements for delineating resources on the plans required by [§200-604-A](#) if the

Zoning Officer determines that information on the application is sufficient to document that the proposed scope of work will meet with requirements of this Article.

- a) The waiver of any requirement other than the delineation of resources on the plans shall be subject to Conditional Use approval under **Subsection D.4** below.
  - b) Said waiver approval or denial shall be issued by the Zoning Officer in writing, within 30 days of receiving a request from the Applicant.
- 3) For any use or activity subject to this article pursuant to [§200-602, Applicability](#), not otherwise subject to approval as provided in **Subsection D.1 and 2** above, including the issuance of permits subject to [§200-602-A](#), modifications to the natural resources Protection standards of [§200-603, Protection Standards](#) may be requested in the form of an application for grant of a Conditional Use by the Board of Supervisors, subject to **Subsection D.4** below.
- 4) In approving any application requiring modification to the natural resource Protection standards of Zoning Ordinance [§200-603, Protection Standards](#) as provided herein, the Board of Supervisors or Zoning Hearing Board, as applicable, as a condition of approval of such application, may permit specific modification to said standards, subject to the following:
- a) The Board of Supervisors or Zoning Hearing Board, as applicable, may grant a modification of the requirements of one or more provisions if the literal enforcement will exact undue hardship or be unreasonable because of peculiar conditions pertaining to the land in question, or if an alternative standard can be demonstrated to provide equal or better results. Further, the Board of Supervisors or Zoning Hearing Board, as applicable, shall find that such modification will be the minimum modification necessary, will not be contrary to the Public interest and that the purpose and intent of this article is observed.
  - b) All requests for a modification shall be in writing and shall accompany and be a part of the applicable application. The request shall state in full the grounds and facts of unreasonableness or hardship on which the request is based, the provision or provisions involved and the minimum modification necessary.
  - c) If approval power is reserved for the Zoning Hearing Board, the request for modification shall be referred to the Board of Supervisors for advisory comments. In all cases, the request for modification may be referred to the Planning Commission for advisory comments.
  - d) The Applicant shall have the duty and burden of presenting evidence to the Board of Supervisors or Zoning Hearing Board, as applicable, in support of and justifying the requested modifications and demonstrating that such modifications will be the minimum modification necessary, will not be contrary to the Public interest and that the purpose and intent of this article are observed.
  - e) The request for modification shall not be granted if the effect of the modification is to exceed the maximum densities, Building/Structure coverages or Impervious Coverages allowed under this Chapter.
  - f) The Board of Supervisors shall keep a written record of all action on all requests for modifications.

## § 200-605 Open Space Requirements

- A. Ownership options for common Open Space. The following methods may be used, either individually or in combination, to own Common Facilities and common Open Space. Common Open Space shall not be transferred to another entity except for transfer to another method of ownership permitted under this section, and then only when there is no decrease in the total common Open Space. Ownership methods shall conform to the following:
- 1) *New Garden Township.*
    - a) Fee simple dedication to the Township. The Township may, but shall not be required to, accept dedication of any portion of the common Open Space, provided that:
      - (i) There is no cost of acquisition to the Township; and
      - (ii) The Township agrees to and has access to maintain such common Open Space.
    - b) Dedication of Easements to New Garden Township. The Township may, but shall not be required to, accept dedication of Easements for Public use of any portion of the common Open Space. In such cases, the facility remains in the ownership of the Community Association, or private conservation organization, while the Township holds the Easements. In addition, the following regulations shall apply:
      - (i) There shall be no cost of acquisition to the Township;
      - (ii) Any such Easements for Public use shall be accessible to the residents of the Township; and
      - (iii) A satisfactory maintenance agreement shall be reached between the Owner and the Township.
  - 2) *Community Association.* Common Open Space and Common Facilities may be held in common ownership for the use of all residents of the Subdivision or Land Development and shall thereby be controlled and maintained by a Community Association. Community Association documents shall be in compliance with the Pennsylvania Uniform Planned Community Act (as to a homeowners' association document) or the Pennsylvania Uniform Condominium Act (as to a Condominium association document), as the case may be. The Community Association document shall include, but not be limited to, the following:
    - a) A description of the common Open Space to be owned by the Community Association. This description shall include a plan of the proposal highlighting the precise location of all aspects of the common Open Space;
    - b) Statements setting forth the powers, duties, and responsibilities of the Community Association, including the services to be provided;
    - c) A declaration of covenants, conditions, and restrictions (declaration), giving perpetual Easement to the lands and facilities owned by the Community Association. The declaration shall be a legal document providing for automatic membership for all Owners in the Subdivision or Land Development and shall describe the mechanism by which Owners participate in the Community Association, including voting, elections, and meetings. The declaration shall give power to the Community Association to own and maintain the common Open Space and to make and enforce rules;

- d) Statements prescribing the process by which Community Association Decisions are reached and setting forth the authority to act;
  - e) Statements requiring each Owner within the Subdivision or Land Development to become a member of the Community Association;
  - f) Statements setting cross covenants or contractual terms binding each Owner to all other Owners for mutual benefit and enforcement;
  - g) Requirements for all Owners to provide a pro rata share of the cost of the operations of the Community Association
  - h) A process of collection and enforcement to obtain funds from Owners who fail to comply;
  - i) A process for transition of control of the Community Association from the developer to the unit Owners;
  - j) Statements describing how the common Open Space of the Community Association will be insured, including limit of liability.
  - k) Provisions for the dissolution of the Community Association;
  - l) Agreements for the maintenance of stormwater management facilities; and
  - m) Agreements for the maintenance and operation of water supply and wastewater treatment facilities.
- 3) Private conservation organization or Chester County. With permission of the Township, an Owner may transfer either fee simple title of the common Open Space or Easements on the common Open Space to a private nonprofit conservation organization or to Chester County, provided that:
- a) The conservation organization is acceptable to the Township and is a bona fide conservation organization intended to exist indefinitely;
  - b) The conveyance contains appropriate provisions for proper reverser or retransfer in the event that the organization or Chester County becomes unwilling or unable to continue carrying out its functions;
  - c) The common Open Space is permanently restricted from future Development through a conservation Easement and the Township is given the ability to enforce these restrictions; and
  - d) A maintenance agreement acceptable to the Township is established between the Owner and the organization or Chester County.
- 4) Private ownership of conservancy Lots. Up to 80% of the required common Open Space may be located within one or more privately owned conservancy Lots of at least 10 acres, provided that:
- a) The common Open Space is permanently restricted from future Subdivision and Development through a conservation Easement.
  - b) The Easement provides the Township the right, but not the obligation, to enforce these restrictions.
- B. Management plan.
- 1) Unless otherwise agreed to by New Garden Township, the cost and responsibility of maintaining common Open Space shall be borne by the property Owner, Community Association, or conservation organization.

- 2) The Applicant shall, at the time of preliminary plan submission, provide a plan for management of common Open Space in accordance with **Chapter 170, Subdivision and Land Development Ordinance**.
- C. Remedy. Failure to adequately maintain the common Open Space in reasonable order and condition in accordance with the Development plan constitutes a violation of this Zoning Ordinance.
- 1) In the event that the organization established to maintain the common Open Space, or any successor organization thereto, fails to maintain all or any portion thereof in reasonable order and condition, the Township may serve written notice upon the Owner of record, setting forth the manner in which the Owner of record has failed to maintain the common Open Space in reasonable order and condition, and may direct the Owner to remedy the same within 30 days.
  - 2) Upon default by any Owner or other entity responsible for maintenance of common Open Space, where such maintenance is necessary to abate a nuisance, Emergency, hazard or other condition threatening Persons or property or the Public health, safety or welfare, the Township may, but shall not be obligated to, take the following actions:
    - a) Upon 30 days' advance written notice to the Owner or entity responsible for such maintenance (or any lesser number of days as may be specified in the notice in instances of Emergency) and the failure of such Owner or entity to perform the necessary maintenance and remedy the condition set forth in the notice, the Township may enter upon the common Open Space to correct the condition. If the Township is forced to assume responsibility for maintenance, any escrow funds may be forfeited and any permits may be revoked or suspended.
    - b) Any and all costs incurred by the Township in connection with such notice and maintenance shall be paid by the Owner or responsible entity within 10 days after written demand by the Township. Upon failure of the Owner or responsible entity to pay such costs in the time required, there shall be added thereto interest at the rate of 15% per annum, a fee of 20% of maintenance expenses incurred by the Township as an administrative fee as well as all costs and attorney's fees incurred by the Township in collection thereof.
    - c) All such costs of maintenance, remediation, administration, notices, and collection, including court costs and attorney's fees, shall constitute a municipal lien and be enforceable as such against the Owner or responsible entity. Where the responsible entity is a Community Association, the municipal lien shall be enforceable against each unit Owner. Notice of such lien shall be filed by the Township in the office of the Prothonotary of Chester County.
    - d) Where the responsible entity is a Community Association, the Community Association document shall provide that in the event the Community Association fails to reimburse the Township within 30 calendar days of receipt of a written bill for such assessment, or if funds from the Community Association are insufficient to fully reimburse the Township, the Township shall have the right, after first providing written notice to the Community Association and the unit Owners, to assess the unit Owners directly for their proportionate share of such cost of deficiency. Such assessment shall be assessed ratably against the unit Owners and shall become a municipal lien on such units from the time such lien may be filed

by the Township. If a lien is placed by the Township against Owners because of the failure of the Community Association, or any successor organization to maintain the common Open Space as provided herein, the Township shall, upon conveyance of a unit, or securing any home equity loan by any unit Owner, release its lien as to the affected unit upon payment of the amount due which was ratably assessed to that unit.

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## Article VII – Parking and Circulation

### §200-701 General Parking Requirements

- A. Surface parking areas provided on-site for New Construction, infill Construction, and Redevelopment shall be located at the side, to the rear, or along the face of a Building that does not front along a Street.
- B. Corners of primary Street intersections shall not be used for the location of Parking Lots, nor shall the space between a Building and the adjacent Street Frontage it faces.
- C. Partial or full underground parking may be used.
- D. When a Structure is redeveloped or enlarged, it shall conform to the requirements of this article for the additional square footage that is added to the Structure or Use.
- E. Principal Use parking requirements shall be met for any Site that wishes to have an Accessory Use. Township reserves the right to require additional Parking Spaces should there be a demonstrated parking demand for the Accessory Use.

### §200-702 Dimensional and Design Standards for Parking Spaces and Lots

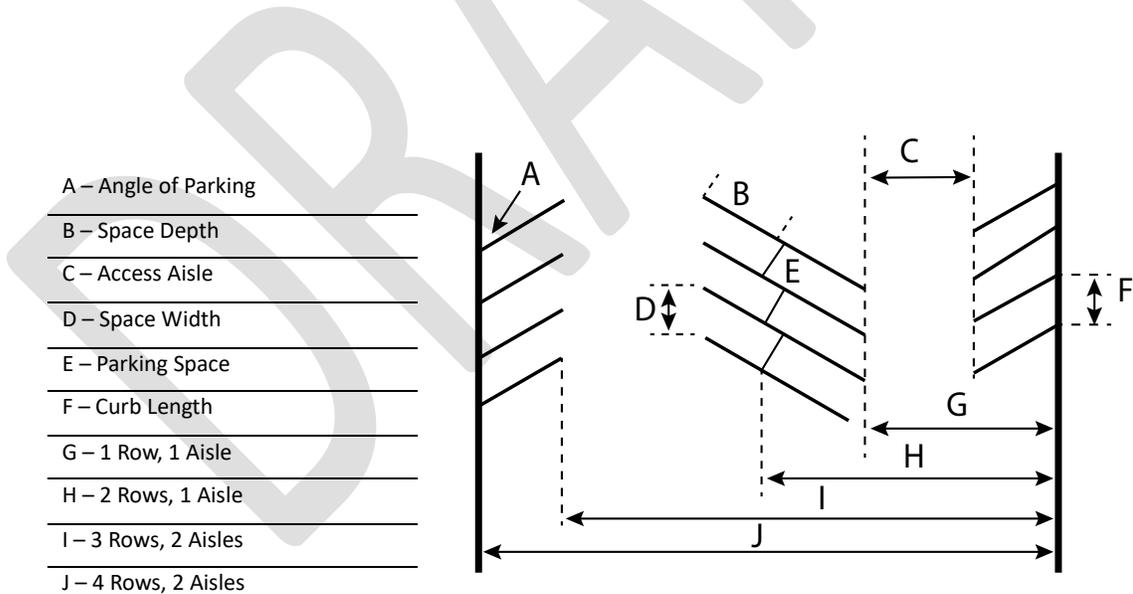
- A. Each Parking Space shall be at least nine feet wide by 18 feet long.
- B. All parking lots shall meet the dimensional requirements for and number of required ADA accessible parking spaces per the requirements of the 2010 ADA Standards for Accessible Design, as amended.
- C. Each Parking Space in a Parking Lot intended to serve a Commercial, institutional, or multi-unit residential use shall Abut an access Aisle. No spaces shall be accessible directly from a Public Street, except for the rear of the property that has a Street Right-Of-Way.
- D. Ground level projections.
  - 1) Paved Areas, including Driveways and parking areas, may be placed no closer than three feet from any side or rear property line, except as part of a shared Parking Lot or Driveway. Only a Driveway, not more than 18 feet wide, and/or a walkway may cross a front Yard or side Yard Abutting a Street. Paved parking areas may Abut a secondary access Street with a Right-Of-Way width not more than 25 feet at the rear or side of a property.
  - 2) In the case of a corner Lot, no Paved Areas except Driveways shall extend into the minimum Yard areas Abutting either Street.
  - 3) All access to Garages and parking areas must be paved where crossing the front Yard of a Lot.
  - 4) In the case of a corner Lot, when a property cannot access parking from the front or rear of the property, it may, with written approval from the Township, access parking from a side Street.
- E. No Parking Spaces shall occur in the Public Street Right-Of-Way if they are required to meet minimum off-Street standards, and spaces shall be set back sufficiently on any property to allow drivers

approaching and leaving the Parking Lot entrance a full view in all directions of traffic along the Public Street. Parking Lots in Residential Districts shall be set back from property lines and Streets by at least five feet with a planted Buffer in accordance with [Article IX, Buffers, Screening, and Landscaping](#).

- F. The maximum width of an entrance to a Parking Lot, not including the required turning radii, shall be the same as the minimum Aisle width for each type of parking scenario found in [Figure 200-7-1, Dimensional Standards for Parking Lots](#).
- G. Parking Lots shall be laid out in accordance with [Figure 200-7-1](#).

Figure 200-7-1, Dimensional Standards for Parking Lots

Dimension	Angle of Parking			
	Parallel	45°	60°	90°
Space Width	9 feet	9 feet	10 feet	9 feet
Space Length	23 feet	18 feet	18 feet	18 feet
Aisle Width	12 feet	13 feet (1-way)	15 feet (1-way)	24 feet
1 row & 1 Aisle	21 feet	33 feet	30 feet	42 feet
2 rows & 1 Aisle	30 feet	51 feet	47 feet	60 feet
3 rows & 2 Aisles	51 feet	83 feet	71 feet	102 feet
4 rows & 2 Aisles	60 feet	115 feet	95 feet	120 feet



### §200-703 Surfacing, Lighting, and Screening

- A. If a parking or Truck servicing area will be developed on land that previously had a surface permitting passage of water through it into the ground below, such area shall be paved with an asphalt or cement binder pavement if the area to be occupied by parking Vehicles, including access, and maneuvering space, exceeds 2,000 square feet.
  - 1) All paved surfaces shall be Graded to assure positive drainage towards a storm sewer or surface Stream, designated in accordance with the stormwater control standards of all appropriate Township ordinances.
- B. Unpaved Parking Spaces are permitted only on Lots containing Single-Unit Detached, Semi-Attached, and Two-Unit Uses.
  - 1) Such paved spaces shall be surfaced with shale, crushed limestone, or other material approved by the Township. The edges of the surfaced area shall be contained by railroad ties, concrete blocks, the side of a Building, or other device that will prevent the scattering of the surfacing material beyond the Parking Spaces.
- C. Off-Street parking areas for more than five Vehicles and off-Street servicing areas shall be screened from view by observers along peripheral edge of the district that is Abutting, adjacent and/or directly across the Street from any residential, park, or historical Structure.
  - 1) Screening may be a fence or hedging or a combination of each across the full width of the edge of the Lot Abutting the residential Lot or Street.
  - 2) A fence may be masonry, wood, or metal, meeting the requirements of [Article IX, Buffers, Screening, and Landscaping](#).
    - a) Not less than 50% of the fence shall be opaque.
- D. Lighting shall meet the standards of [Article VIII, Lighting](#).

### §200-704 Residential Off-Street Parking Requirements

- A. Applicability. The following regulations shall apply to all residential units.
- B. Design.
  - 1) Each Parking Space shall be at least nine feet by 18 feet in size.
  - 2) All Parking Spaces shall have an improved, All-Weather Surface, providing safe and convenient access in all seasons.
- C. Substitution. Single-Unit, Two-Unit, and Townhouse dwellings can substitute Driveways and Garages in the calculation for Parking Spaces.
- D. Driveways.
  - 1) Driveways for all Single-Unit Detached, Single-Unit Semi-Attached, and Two-Unit Dwelling Units uses within any district shall have a common access Driveway to serve each Dwelling Units.

- 2) Driveways for all Townhouse Dwelling Unit Uses shall have one Driveway to provide access to not less than two residential Dwelling Units.

#### §200-705 Off-Street Parking Requirements

- A. *Applicability.* Each use that is newly developed, enlarged, significantly changed in type or increased in number of establishments shall provide and maintain off-Street Parking Spaces in accordance with [Figure 200-7-2, Required Number of Off-Street Parking Spaces Per Use](#), and the regulations of this Part.
- B. *Option for a Parking Demand Analysis.* However, should any use that is newly developed, enlarged, significantly changed in type or increased in number of establishments choose to instead prepare a Parking Demand Analysis in accordance with the submittal and approval requirements of **Subsection E.2.** the number of minimum Parking Spaces determined within that analysis can be utilized instead of those that would be calculated using the factors found within [Figure 200-7-2](#).
  - 1) Any uses not found within [Figure 200-7-2](#) can either defer to the recommendation of the Township or develop a Parking Demand Analysis to determine their minimum number of recommended Parking Spaces.
- C. Unless otherwise deemed appropriate by the Township, no new use or Building shall add any Parking Spaces to a property that will exceed 110% of the minimum number of recommended Parking Spaces as determined in [Figure 200-7-2](#) or through a Parking Demand Analysis.

Figure 200-7-2, Required Number of Off-Street Parking Spaces Per Use

Uses	Required Number of Parking Spaces
<b>Residential and Lodging Uses</b>	
Assisted Living Facility	Parking Demand Analysis
Bed and Breakfast	2 spaces plus 1 space per sleeping room
Boardinghouse	1 space per 2 beds, plus 1 per employee
Community Residence, Group Home and Recovery Home	1 space per 3 beds, plus one space for every employee not living on the Premises
Dwelling, Single-Unit Detached	2 per unit
Dwelling, Single-Unit Semi-Attached	
Dwelling, Two-Unit	
Dwelling, Townhouse	
Dwelling, Multi-Unit	1 per unit
Hotel	1 space for each guest room, plus 1 space for each 2 employees on the largest shift
Live-Work Unit	2 per unit
Manufactured Home	2 per unit
Manufactured Home Community	
Mixed-Use Building	Parking Demand Analysis
Motel	1 space per sleeping room, plus 1 space for every employee per shift
Short-Term Rental, Principal	1 space per unit if located within a Multi-Unit Dwelling, 2 spaces per unit if located within a Two-Unit, Single-Unit Semi-Attached, or Single-Unit Detached Dwelling Unit
Temporary Shelter Facility	1 space per employee per shift
<b>Civic and Institutional Uses</b>	
Assembly, General	Parking Demand Analysis
Assembly, Neighborhood	
Cemetery	
Government Facility	
Higher Education Facility	
Hospital	
Hospital, Small-Format	
Library/Museum	
Medical Marijuana Academic Research Center	1 space per employee per shift
Police/Fire/EMS	Parking Demand Analysis
School	
Stadium/Arena	
<b>Agriculture, Recreational, and Open Space Uses</b>	
Campground	Parking Demand Analysis
Community Garden	1 space per 2,000 sq feet of land area
Composting Operation, Agricultural	1 space per employee per shift
Composting Operation, Commercial	1 space per employee per shift
Firearms Target Range, Indoor	1 per 250 sq feet of Gross Floor Area
Firearms Target Range, Outdoor	
Forestry Operation	Parking Demand Analysis
Golf Course/Country Club	Parking Demand Analysis
Medical Marijuana Grower/Processor	1 space per employee per shift
Nature Preserve	1 space per 2,000 sq feet of land area
Normal Agricultural Operations	1 space per employee per shift
Park	Parking Demand Analysis
Recreation, Commercial or Private	Parking Demand Analysis

Recreation, Public	
<b>Retail Uses</b>	
Beer/Wine/Liquor Sales	1 space per 250 sq feet of Gross Floor Area
Cigarette / Vaporizer Store	
Commercial Equipment and Supply	
Convenience Store	
Medical Marijuana Dispensary	
Outdoor Sales Lot	1 space per 500sq feet of display and storage
Retail, General	1 space per 250 sq feet of Gross Floor Area
Retail, Neighborhood	
<b>Service Uses</b>	
Adult Establishment	Parking demand analysis
Animal Daycare & Training	1 space per employee per shift, plus 1 per 500 sq feet of Gross Floor Area
Automobile Fueling and Limited Repair Service	1 space per employee per shift, plus 1 per 500 sq feet of customer-facing Floor Area
Automobile Repair Garage	
Automobile, Truck, and Limousine Sales and Rental	
Brew Pub	Parking Demand Analysis
Car Wash	1 space per employee per shift, plus 1 per Vehicle provided drop-off service
Day Care, Adult	1 space per employee per shift, plus 1 per 2 of the maximum number of adults served
Day Care, Child	1 space per employee per shift, plus 1 per 2 of the maximum number of children served
Drinking Place	1 space per 250 sq feet of Gross Floor Area
Drive-Through Only Facility	1 space per employee per shift
Eating Place	Parking Demand Analysis
Entertainment Assembly	1 per each 3 seats
Event Venue	Parking Demand Analysis
Firearms Establishment	1 per 250 sq feet of Gross Floor Area
Funeral Home	
Medical Clinic	
Pawn Shop/Cash Checking	1 space per 250 sq feet of Gross Floor Area
Private Club	
Self-Storage Facility	Parking Demand Analysis
Self-Storage Facility, Indoor Climate-controlled	
Service, General	1 per 1,500 sq feet of Gross Floor Area
Service, Neighborhood	1 per 250 sq feet of Gross Floor Area
Smoking Places	
Tattoo/Piercing Parlor	
Treatment Facility	
<b>Employment Uses</b>	
Bio-medical Facility	1 space per 300 sq feet of Gross Floor Area
Office	
Research, Experimental, and Technology Center (RETCs)	
Science and Technology Center (STCs)	
<b>Infrastructure Uses</b>	
Aviation	Parking Demand Analysis
Parking, Principal	Not applicable
Solar Energy System, Principal	Parking Demand Analysis

Transportation and Utilities, Public Utilities	
Transportation and Utilities, Transit Bus Stop	
Transportation and Utilities, Transit Facility	
Wind Energy System, Principal	Not applicable
Wireless Communications Facility, Small, inside the Public Rights-of-way	
Wireless Communications Facility, Small, outside the Public Rights-of-way	
Wireless Communications Facility, tower-based	
<b>Industrial Uses</b>	
Air Transport Package Handling Facility	<p>In addition to parking or storage needed for the maximum number of Vehicles stored, displayed, or based at the Lot at any point in time, storage or display spaces are not required to meet the stall size and Aisle width requirements of this Chapter:</p> <p>1 space per employee, based upon the maximum number of employees on Site at peak period of times.</p> <p>Plus 1 ten-foot by eighty-foot (10' x 80') Truck staging Parking Space for every 2 loading docks</p>
Brewery, Distillery, Winery	
Data Center	
Industrial, Craftsman	
Industrial, Heavy	
Industrial, Light	
Junkyard	
Outdoor Storage Yard	
Solid Waste Disposal Facility	
Trucking Terminal	
Warehouse/ Logistics Use, Large	
Warehouse/ Logistics Use, Small	

D. General Requirements.

- 1) Continuing Obligation of Parking and Loading Spaces. All required numbers of Parking Spaces and off-Street Loading Spaces shall be available as long as the use or Building which the spaces serve still exist, and such spaces shall not be reduced in number below the minimum required by this Chapter. No required parking area or off-Street Loading Spaces shall be used for any other use (such as storage or display of materials) that interferes with the area's availability for parking to a degree that bring it under the minimum number of required Parking Spaces without approval from the Township.
- 2) Existing Parking. Any Parking Spaces serving such preexisting Structures or uses at the time of adoption of this Chapter shall not in the future be reduced in number below the number required by this Chapter.
- 3) Location of Parking. Required off-Street Parking Spaces shall be on the same Lot or Abutting Lot with the principal use served, unless the Applicant proves to the satisfaction of the Township that a permanent method of providing the spaces is available, using area of a Lot within 300 feet of the entrance of the principal use being served.

E. Calculating the Number of Spaces.

- 1) Calculation. Where the calculation of the recommended number of Parking Spaces does not result in a whole number, the calculation shall be rounded to the closest whole number, either up or down.
- 2) Parking Demand Analysis. To ensure that certain Developments provide adequate, but not excessive, Vehicle parking, the Township requires Applicants thereof to submit a written computation of their required off-Street Parking Spaces based on the estimated parking demand of the proposed Use(s) or the size of the Development.
  - a) A Parking Demand Analysis is required for New Construction of Principal Buildings of at least 5,000 square feet in size.
  - b) A Parking Demand Analysis is required for a change of use or expansion, of 5,000 square feet or greater, of a Principal Building with a Gross Floor Area of at least 25,000 square feet.
  - c) A Parking Demand Analysis is required for any new residential Development that includes 100 or more Dwelling Units.
  - d) The Parking Demand Analysis shall be a Report that is prepared by a Registered Design Professional. The Parking Analysis Report shall contain the following:
    - (i) Site Plan. A Site Plan containing the following:
      - (a) Legal property boundary.
      - (b) Existing and proposed project layout.
      - (c) All existing and proposed uses and tenant spaces.
      - (d) All existing and proposed Parking Spaces.
    - (ii) Analysis of parking demand information from professional literature that is pertinent to the proposed Development. Such information may include data or literature from the Urban Land Institute's (ULI) Shared Parking and/or the Institute of Transportation Engineers' (ITE) Parking Generation Manual.
    - (iii) Current parking quantity and parking Use data from existing Developments that are similar to the proposed Development. The information about the existing Development and its parking demand shall include enough detail to evaluate similarities and differences between the existing Development and the proposed Development.
    - (iv) Propose a minimum and maximum parking ratio. For phased projects, and for projects where the tenant mix is unknown or subject to change, the Applicant may propose a range (low and high number of Parking Spaces) for each Development phase and both a minimum and maximum number of Parking Spaces to be provided at buildout of the project.
    - (v) Peak hours of operation and parking occupancy.
    - (vi) Final number of proposed required Parking Spaces with justification and summary of findings. Note: Where the calculation of minimum Parking Spaces does not result in a whole number, the result shall be rounded up to the next whole number.
- 3) Multiple Uses. Where a proposed Lot contains or includes more than one type of use, the number of Parking Spaces required shall be the sum of the parking requirements for each separate use, unless the Applicant can prove to the satisfaction of the Township that the sum of the total spaces is not needed due to separate peak hours or operating times for each use.
- 4) Change in Use or Expansion. A Structure or use in existence at the effective date of this Chapter that expands or significantly changes in use the existing Principal Building shall be required to provide all the required parking for the entire size and type of the resulting use, except as follows:

- a) If the use expands in total Building floor area by an aggregate total maximum of 5% in the applicable measurement (such as Building Floor Area) beyond what existed at the time of adoption of this Chapter, then no additional parking is required.
  - b) If the expansion of the use would increase the number of required Parking Spaces by less than 20 spaces beyond what exists, then an Applicant may choose to only add the spaces required by the expansion.
  - c) If the change in use would increase the number of required Parking Spaces by less than 20 spaces beyond what exists, then an Applicant may choose to only add the additional number of spaces required by the new use compared to the previous use.
- 5) Township Approval.
- a) The Township Board of Supervisors, upon recommendation by the Planning Commission and in consultation with the Township Zoning Officer and Township Engineer shall consider the Determination of final parking requirements made in the Applicant's Parking Analysis Report. Based on the Applicant's materials and other data the Township Engineer deems relevant, the Board of Supervisors shall set the requirements for minimum and maximum parking allowed. Conditions of approval may be placed on the Decision to ensure compliance with the parking Determination.
  - b) The Applicant may Appeal the Township's Decision to the Zoning Hearing Board pursuant to [§200-112, Appeals and Applications](#), of this Chapter.
- 6) Reduction of Parking Requirements as a Conditional Use.
- a) Purposes. To minimize Impervious Surfaces, while ensuring adequate parking; to recognize unique circumstances that may justify a reduction in parking.
  - b) The Board of Supervisors may permit a reduction, through the Conditional Use process of [§200-116, Conditional Use Procedures](#), of the number of Parking Spaces required to be developed, if the Applicant proves to the satisfaction of the Board that fewer Parking Spaces are needed.
    - (i) Proof. To prove that less Parking Spaces are needed, the Applicant shall provide existing and projected employment, customer, resident, or other relevant data. Such data may include a study of parking at similar Developments during peak periods of use.
    - (ii) Reservation of Future Parking Areas. If a reduction is permitted under this Section, the Board may require as a condition of the Conditional Use approval that the Lot include the reservation, permanently or for a specified number of years, of areas for use if needed in the future for additional parking.
      - (a) Such reservation shall be provided in a legal form acceptable to the Township Solicitor. A legally binding deed restriction is recommended.
      - (b) In such case, the Applicant shall be required to submit Site plans to the Zoning Officer showing where and how the additional parking could be accomplished. Such future parking areas shall be designed to meet all Township requirements, including stormwater runoff. Such future parking areas shall not be covered by Buildings and shall be attractively landscaped unless needed for parking.
      - (c) Such additional parking shall be required to be provided within one year by the Owner of the Lot at that time after the Zoning Officer may determine in writing to such Owner that such parking has become needed to meet actual use. Such Determination shall

be based upon the Zoning Officer's on-Site review on at least three different days.

#### §200-706 Shared Parking

- A. The Parking Spaces required in the above standards may be reduced by an amount determined by the Township when it can be demonstrated that sufficient parking is already available or can be provided by the subject uses through shared parking.
  - 1) Evidence must be provided related to the anticipated parking demand at peak times and the distance relationship between shared Parking Spaces and the specific uses to be served.
  - 2) Some portion of the shared off-Street parking area shall lie within 300 feet of an entrance, regularly used by patrons, into the Buildings to be served by the shared parking.
  - 3) Access and parking Easements shall be prepared and recorded for each property to be served by the shared parking.
  - 4) The use of shared parking may be required when the Development is under the control of a single Owner/developer and contains Commercial, retail, office, institutional, or Public uses with staggered peak parking demands. A parking demand study is encouraged for all Development and Redevelopment to optimize available parking resources, minimize Construction and maintenance costs, and enhance community character.
  - 5) A written agreement involving all parties to shared parking arrangements shall be kept on file with the Township.

#### §200-707 Recreational Vehicle (RV) and Boat Parking Requirements

- A. The Front Setback of the applicable Zoning district applies to the location of the parked RV or boat.
- B. A RV or boat parked or stored on the Side or Rear Setback must be at least 5 feet from any property line.
- C. When a RV is parked or stored on a Lot with a Multi-Unit Dwelling as the Principal Use:
  - 1) The Side and Rear Setbacks apply to the location of the RV.
    - a) The area where the Recreational Vehicle or boat is parked or stored must be surrounded by a six-foot-high privacy fence.

#### §200-708 Unregistered Vehicles

- A. Any Vehicle or Trailer that does not display a license plate with a current registration sticker and does not have a valid state safety inspection sticker. This term shall not apply to Vehicles (such as licensed antique cars) for which state regulations do not require an inspection sticker. The term also shall not include Vehicles displaying licenses or inspection stickers that have expired less than 90 days previously.
  - 1) On Lots of less than two acres in a residential district, a maximum of one Unregistered Vehicle not including any Junk Vehicle, may be stored or parked in such a way that the Vehicle is not visible from a Public Street.

- 2) The following shall apply on any Lot other than a Lot of less than two acres in a residential district: a total maximum of two Unregistered Vehicles or Junk Vehicles may be stored or parked in such a way that the Vehicle is not visible from a Public Street.
- 3) This section shall not apply to a permitted auto sales use, auto service station, junkyard or auto Repair garage, provided that the regulations for that use are met.

§200-709 Loading

- A. Off-Street loading must be provided for all new Buildings, Additions to Buildings, expansions of Use, and changes in Use according to the requirements of this Chapter and those specified in **Chapter 170, Subdivision and Land Development Ordinance.**
- B. Off-Street Loading and Unloading.
  - 1) Off-Street loading shall be required in accordance with this section prior to the occupancy of any Building or use, to alleviate traffic congestion on Streets. These facilities shall be provided whenever:
    - a) A new use is established.
    - b) The use of a property or Building is changed and thereby requiring more Loading Space.
    - c) An existing use is enlarged, thereby requiring an increase in Loading Space.
    - d) Where off-Street Loading Spaces are required, Loading Spaces or berths shall be provided for standing, loading, and unloading operations, either inside or outside a Building and on the same or adjoining Premises as prescribed in [Figure 200-7-3, Minimum Required Loading Docks.](#)
    - e) Site Plan. Each application for a Permit (or use for which off-Street Loading Spaces are required) shall include a Site Plan pursuant to the requirements of this Ordinance showing the proposed layout of the loading area. No Permit shall be issued for any use for which a loading area is required unless the Site plan has been approved or necessary Variances have been approved.
    - f) Design Requirements. All off-Street loading shall be designed and constructed in compliance with the **Chapter 170, Subdivision and Land Development Ordinance.**

Figure 200-7-3, Minimum Required Loading Docks

Use Classification	Requirements
Retail operations and all first-floor nonresidential uses with a GFA of up to 20,000 sq. ft.	1 Loading Space
Retail operations and all first-floor nonresidential uses with a GFA of more than 20,000 sq. ft up to 50,000	1 berth for local delivery Trucks
Retail operations and all first-floor nonresidential uses with a GFA of more than 50,000 sq. ft.	1 berth for local delivery Trucks, 1 berth for semi-Trailers
Office Buildings and hotels with a GFA of 100,000 sq. ft. or more	1 berth for semi-Trailers for every 100,000 sq. ft. of GFA

Industrial and wholesale operations	Less than 10,000 sq. ft.	1 space
	10,000—40,000 sq. ft.	1 berth for semi-Trailers
	40,000—100,000 sq. ft.	2 berths for semi-Trailers
	100,000—160,000 sq. ft.	3 berths for semi-Trailers
	160,000—240,000 sq. ft.	4 berths for semi-Trailers
	240,000—320,000 sq. ft.	5 berths for semi-Trailers
	320,000—400,000 sq. ft.	6 berths for semi-Trailers
	Each 90,000—above 400,000 sq. ft.	1 additional berth for semi-Trailers

- 2) Location.
  - a) Loading facilities shall not be located at the front of Buildings and shall be hidden from pedestrian and vehicular activity.
  - b) In no case shall the use of a Loading Space or berth hinder the movement of Vehicles, bicyclists, and pedestrians over a Street, Alley, Shared Use Pathway, or sidewalk.
  - c) Maneuvering areas shall not be located to require Vehicles to back into an Alley or Street when unloading materials.
  - d) Loading Spaces shall be located in the rear of the property of the business to be served.
  - e) Loading Spaces shall not be placed in the front, rear, or side Yard minimum Setbacks, as defined in this Ordinance.
  
- 3) Dimensions. Loading Spaces shall provide ample maneuvering space for Vehicles as follows:
  - a) Loading Space. Shall be the width and length of a standard Parking Space as prescribed within this Chapter.
  - b) Loading Berths for Local Delivery Trucks. Shall have a minimum width of 10 feet, minimum length of 25 feet and a minimum vertical clearance of 16 feet above Finished Grade.
  - c) Loading Berth for Semi-Trailers. Shall have a minimum width of 10 feet, minimum length of 60 feet and a minimum vertical clearance of 16 feet above Finished Grade.
  
- 4) Screening. See [Article IX, Buffers, Screening, and Landscaping](#).
  
- 5) Off-Street Parking Prohibited. A Loading Space shall not be considered an off-Street Parking Space, and therefore shall not be considered a credit to the number of required Parking Spaces as required under **Subparagraph A** above.

## Article VIII – Nuisances

### § 200-801 Noise

- A. Purpose. This ordinance aims to ensure that Public health, safety and welfare shall not be abridged by the making and creating of Public nuisances from disturbing, excessive or offensive Noises. The residents of the Township recognize that uncontrolled Noise represents a danger to the health and welfare of their neighbors and that each Person in the community is entitled to live in an environment in which the level of Noise is minimized for the community good. This ordinance attempts to foster mutual respect among residents and to establish a community position against Noise pollution. The community believes that it should rely on the good sense of all residents to respect one another's living and working environments and one another's right to an environment that is free from Noise Disturbances.
- B. Scope. This ordinance applies to all Persons, property, animals, equipment, appliances, instruments and other Sound-emitting devices, as regulated herein.
- C. Unlawful Noise Prohibited.
- 1) Except as otherwise provided in this Chapter, it shall be unlawful for any Person to make or cause to be made any Unreasonable Noise or to allow any Unreasonable Noise to be caused or made in or on any real or Personal property occupied or controlled by that Person.
  - 2) In addition to the foregoing, it shall also be unlawful for any Person to create, assist in creating, or as Owner, lessee or occupant of the property on which the activity is located permit any of the following acts:
    - (i) Radios, stereos, and musical instruments. The playing of any radio, stereo, television set, amplified or unamplified musical instrument, loudspeaker, tape recorder, compact disc player, or other such electronic Sound-producing devices, in such a manner or with volume that is:
      - (a) Plainly Audible beyond the property line of a Single-Unit Dwelling from which it is generated or outside of the duplex Dwelling Unit or individual Dwelling Unit of the Multi-Unit Dwelling from which it is generated; or
      - (b) Plainly Audible at a distance of 50 feet from the Vehicle in which it is generated; or
      - (c) Plainly Audible at a distance of 50 feet from its location on Public property or private property open to the general Public.
      - (d) Causing or has caused vibrations with a bass within a Dwelling Unit or within a Vehicle other than the unit or Vehicle from which it is/was generated.
    - (ii) Whistles or sirens. The blowing of any amplified or electronic whistles, air horns or sirens, except to give notice of the time to begin or stop work or as a warning of fire or other danger.
    - (iii) Loading and unloading. Loading, unloading, opening, closing, or other handling of boxes, crates, containers, building materials, or similar objects between the hours of 10:00 p.m. and 7:00 a.m. the following day in such a manner as to cause a Noise Disturbance across a residential real property boundary. This section shall not apply to municipal or Utility services in or about the Public Right-of-way.

- (iv) Construction Noise. Operating or causing to be operated any equipment used in Construction, Repair, alteration or Demolition work on Buildings, Structures, Streets, Alleys or appurtenances thereto in the following manner:
  - (a) With Sound control devices or standard Noise-reducing equipment which has been tampered with or not being operated within the Manufacturer's specifications or otherwise not in proper operating condition; or
  - (b) Between the hours of 10:00 p.m. and 7:00 a.m. the following day on weekdays and Saturdays and between 10:00 p.m. on Saturday evenings and 9:00 a.m. on Sunday, which creates a Noise Disturbance, unless otherwise exempted in this ordinance.
- (v) Power Equipment. Operating, or permitting to be operated, any power saw, sander, drill, grinder, garden equipment or tools of a similar nature, outdoors between the hours of 10:00 p.m. and 7:00 a.m., in such a manner as to create a Noise Disturbance.
- (vi) Explosives, Firearms, Fireworks, or Similar Devices. The use or firing of explosives, firearms, fireworks, or similar devices which create a Noise Disturbance between the hours of 11 p.m. to 7 a.m. the next day.
- (vii) Devices to attract attention. The continuous or repeated use of any drum, loudspeaker, amplifier, or other instrument or device for the purpose of attracting attention so as to disturb the peace, comfort, or repose of others within the Township by being Plainly Audible to Persons within any dwelling, hotel, hospital, office or other type of residence other than that from which it originates.
- (viii) Other excessive Noise. The creation of any other excessive or unreasonably loud Noise which disturbs the peace, comfort, or repose of others within the Township by being Plainly Audible to Persons within any dwelling, hotel, hospital, office or other type of residence other than that from which it originates.

D. Sound levels by receiving land use.

- 1) Maximum permissible Sound levels by receiving land use. No Person shall operate or cause to be operated on Public or private property any source of Sound in such a manner as to create a Sound level which exceeds the limits set forth in the receiving land use category in [Figure 200-8-1, Maximum Sound Levels](#), when measured at or within the property boundary of the receiving land use. Any Noise source that produces Sound in excess of those levels shall constitute a Noise Disturbance.
- 2) Correction for character of Sound. For any source of Sound which emits a pure tone or impulsive Sound, the maximum Sound level limits set forth in [Figure 200-8-1](#) shall be reduced 5 dB(A).

Figure 200-8-1, Maximum Sound Levels

Receiving Land Use (RLU) or Zoning District	Hours/Days	Maximum Sound Level at RLU Lot Line
Conservation and Residential Districts and All Residential Uses (regardless of district)	7:00 a.m. to 10:00 p.m.	70 dBA
	10:00 p.m. to 7:00 a.m.	55 dBA
Industrial and Mixed-Use Districts	All times and days	75 dBA

E. Exemptions.

- 1) Safety and Warning Devices. Safety signals and warning devices (e.g., stationary Emergency signal devices, intrusion alarms, back-up alarms on Trucks, police/fire/ambulance sirens) or any other device used to alert Persons to an Emergency or used during Emergency Work.
- 2) Highway and Utility maintenance and Construction. Necessary excavations in or Repairs of bridges, Streets, or highways, or any Public Utility installation by or on behalf of the Township, or any Public Utility or any agency of the Commonwealth of Pennsylvania, during the night or on Sunday, when the Public health, safety, or welfare necessitates the performance of the work at such time.
- 3) Municipal Facilities or Public Utilities. The provision, Repair and maintenance of municipal services, facilities, or Public utilities.
- 4) Law Enforcement. The Sounds made or caused to be made by law enforcement officials in the performance of their official duties such as sirens, two-way radio communications, Public address systems, the discharging of a firearm, aircraft, etc.
- 5) School Districts or New Garden Township. Musical, recreational and athletic events conducted by local school districts or the Township including such outdoor practices as may be necessary in preparation for such events.
- 6) Bells, chimes and carillons. Bells, chimes and carillons used for religious purposes or in conjunction with national celebrations or Public holidays; existing bells, chimes and carillons and clock strike mechanisms that are currently in use for any purpose.
- 7) Appliances, lawn and garden equipment or household power tools. Appliances, lawn and garden equipment or household power tools in use between the hours of 7:00 a.m. and 10:00 p.m., provided such are operated within the Manufacturer's specifications and with all standard Noise reducing equipment in use, unmodified and in proper operating condition.
- 8) Air conditioners, fans, Heating units. Air conditioners, fans, Heating units and similar devices of less than eight tons, Heating or cooling capacity, provided such are operated within the Manufacturer's specifications and all reasonable measures have been taken to reduce Noise levels.
- 9) Snow removal. The operation of snow removal equipment necessary for the removal of snow or ice from Public or private Streets, Alleys, drives, sidewalks, and parking areas, provided that any Motor Vehicle used for snow removal which is required to be licensed shall be equipped with an exhaust system in good working order to prevent excessive or unusual Noise and shall be equipped to prevent engine Noise in excess of the limits established by the laws or statutes of the Commonwealth of Pennsylvania. Also, any motor-driven Vehicle of a type not subject to registration for Road use or domestic snow removal equipment shall be equipped with an exhaust system or mufflers in good working order to prevent excessive or unusual Noise.
- 10) Construction Equipment. Heavy Construction equipment (including pile drivers, crawler-tractors, bulldozers, rotary drills and augers, loaders, power shovels, cranes, derricks, motor graders, paving machines, trenchers, compactors, scrapers, pavement breakers, compressors, pneumatic power equipment and similar devices) in use between the hours of 7:00 a.m. and 10:00 p.m., for the duration of such Construction and Demolition work, provided such are operated within the Manufacturer's specifications and with all standard Noise-reducing equipment in use, unmodified and in proper operating condition.

- 11) Parades, festivals and similar events. Township approved or sponsored parades, festivals, fairs, music or other events.
  - 12) Aircraft. Any aircraft operated in conformity with, or pursuant to, federal law, federal air regulations, and air traffic control and instructions and pursuant to and within the duly adopted federal air regulations.
  - 13) Emergency Waivers. Activities permitted by Emergency waiver, as provided herein, and activities conducted in accordance with any special activity permit for use of Public property or Rights-of-way, approved by the Township.
  - 14) Activities conducted as part of normal agricultural operations pursuant to the Right to Farm Act.
- F. Emergency Waivers. A temporary waiver from strict compliance with the Noise standards specified herein may be granted to Persons for emergencies, as determined by the Township Manager, to protect health and safety or to comply with other lawful rules, regulations and ordinances.

### § 200-802 Other Nuisances

The following Nuisance performance standards and restrictions shall apply for all nonresidential Uses in any of the Zoning districts with the exception of activities conducted as part of normal agricultural operations pursuant to the Right to Farm Act.

- A. Control of Smoke, Dust, Dirt, Fumes, Vapors, Gases and Odors. The Pennsylvania Air Pollution Control Act [Act of Jan. 8, (1960) 1959, P.L. 2119, No. 787] standards shall be used to control the emission of smoke, dust, dirt, fly ash, fumes, vapors, gases, or odors.
- B. Vibration. Any Use creating intense earth-shaking vibrations such as are created by a heavy drop forge shall be set back a minimum of 250 feet from contiguous Zoning districts. No perceptible vibrations shall be permitted at the property line. Vibration caused by maintenance and Construction activities is exempt.
- C. Hazardous and Waste Materials.
  - 1) No use shall engage in the production or storage of any material designed for use as an explosive.
  - 2) No use shall engage in the storage of waste materials on the Lot for any period beyond 30 days.
  - 3) Interim waste storage shall be located behind the front Building line of the primary Building and no closer than 50 feet to any rear or side Lot line.
  - 4) All storage shall be completely screened from the view of any Street or adjoining property.
  - 5) No use shall discharge an objectionable and/or potentially dangerous effluent from plant operations.
  - 6) No Industrial lagoons for chemicals or other liquid waste shall be permitted.
- D. Radiation of Electrical Emissions, Radioactivity or Electrical Disturbance. Activities that may emit dangerous radioactivity beyond closed areas shall comply with State and Federal Codes. No electrical disturbances (except from domestic household appliances) shall be permitted to affect adversely, at any point, any equipment other than that of the creator of such disturbance.

- E. Electric, Diesel, Gas or Other Power. Every Use requiring power shall be so operated that any service lines, substation, etc., shall conform to the highest applicable safety requirements. They shall be constructed and installed, so that they will be an integral part of the architectural features of the Building or, if visible from Abutting residential properties, shall be concealed by evergreen planting.
- F. Sewage and Waste Treatment. All methods of sewage and Industrial waste treatment and disposal shall be approved by Aqua or applicable provider and be in accordance with all applicable regulations.

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## Article IX – Buffers, Screening, and Landscaping

- A. ***Purpose.*** Buffers, screening, and Landscaping shall be required in certain circumstances to reduce possible light, Sound, and visual intrusions caused by some permitted uses that would otherwise impact upon neighboring properties.
- B. ***Applicability.*** Certain Softening, Filtering, and Screening Buffers shall be required by the Board of Supervisors under the following circumstances:
- 1) Where a certain type of proposed use is Abuts an existing use, in accordance with [Figure 200-9-1, Buffer Area and Screening Requirements](#).
  - 2) Where an activity has been granted as a Conditional Use.
  - 3) Where an activity has been granted as a Special Exception.
  - 4) Where an outdoor storage activity or mechanical equipment area is proposed.
  - 5) Where specified by other sections of this Chapter.
  - 6) The Board of Supervisors may further determine that screening shall be required for a proposed use when the proposed use is determined to be incompatible with uses on Adjacent Tracts. The following situations may create incompatibility between Uses:
    - a) The Density of the proposed Use is greater than that of adjacent Uses.
    - b) The proposed use involves outdoor activities beyond parking and loading.
    - c) Traffic volumes, Noise generation, the use of lighting, or other factors make the proposed use more intensive than adjacent uses.
- C. ***Design Criteria.*** The following design standards related to Buffers shall be implemented:
- 1) Any proposed use shall meet the Buffer requirements established in [Figure 200-9-1](#), unless otherwise stipulated in this Chapter. Any required Softening, Filtering, or Screening Buffer shall extend the entire length or width of the property line that it is assigned to.

Figure 200-9-1, Buffer Area and Screening Requirements

Proposed Use	Uses			
	Civic & Institutional /Lodging /Employment	Retail/Service	Residential	Industrial
Civic & Institutional /Lodging /Employment	Softening	Filtering	Screening	Screening
Retail/Service	Filtering	Softening	Screening	Screening
Residential	Screening	Filtering	Softening	Screening
Industrial	Screening	Screening	Screening	Softening

2) Buffer Area Locations and Dimensions.

- a) A Buffer planting area of not less than 15 feet in width shall be established along all property lines and external Street boundaries of the Tract proposed for Subdivision or Land Development unless otherwise specified in the Zoning ordinance. Where Zoning regulations allow Building Setbacks less than fifteen 15 feet, the Buffer area may be reduced to equal the width of the minimum Building Setback.
- b) The Buffer area may be included within the front, side, or rear Yard Setback.
- c) The Buffer area shall be a continuous pervious planting area consisting of canopy trees, small understory trees, and shrubs, with grass or ground cover. No paving shall be permitted within the Buffer areas except for Driveway crossing, walkways, sidewalks, or Shared Use Pathways.
- d) Parking is not permitted in the Buffer area.

3) Minimum Plant Material Requirements.

- a) [Figure 200-9-2, Minimum Plant Material Requirements](#), specifies the minimum plant material requirements. Additional plant material, grading treatments, or architectural elements may be included in the plan at the Applicant's discretion. Each 100 linear feet of property line or external Street boundaries of the Tract proposed for Subdivision or Land Development shall be Buffered with the specified minimum quantities, types, and sizes of plant material.
- b) No Buffer area or part thereof shall be used for parking, drive Aisle, or storage.
- c) Buffer areas may coincide within any required Building Setback.
- d) Buffer areas may be crossed by access Roads, service drives or Easements with a maximum width of 35 feet.
- e) Buffer areas shall extend for the entire width of the property line adjoining the Residential Lot or District.
- f) All screening materials shall not encroach upon the adjoining property line at full maturity.
- g) Screening shall be provided in the Buffer areas in accordance the following:
  - (i) Landscaping shall be a combination of shade trees, ornamental trees, evergreen trees, deciduous shrubs, evergreen shrubs, and groundcovers as provided for in [Figure 200-9-2](#).
  - (ii) All Buffers shall be in accordance with **Chapter 170, Subdivision and Land Development Ordinance**.
  - (iii) Loading and Service Areas. All loading and service areas shall meet the following screening requirements when adjacent to a Residential District or Use:
    - (a) One shade tree per 60 linear feet.
    - (b) One evergreen per 10 linear feet of visible loading and service area.
  - (iv) All dumpsters, transformers, fuel Storage Tanks, and unsightly utilities shall meet the following screening requirements regardless of location or district:
    - (a) One shade tree per 40 linear feet.
    - (b) One evergreen tree per five linear feet of visibility.
  - (v) Existing acceptable vegetation should be retained when feasible. Credit may be applied to required perimeter landscape plantings if the existing trees can be maintained and are of acceptable size and health.

- 4) Street trees shall be provided in accordance with **Chapter 170, Subdivision and Land Development Ordinance**.
- 5) Stormwater Management Facilities. Screening of stormwater management facilities shall be accordance with the following standards:
  - a) Landscape Buffering and screening techniques shall be required for stormwater management facilities that are adjacent to dissimilar adjoining properties and Public and private Roads.
  - b) The stormwater management screening and Buffering shall not be applied to fulfill any other of the required landscape Buffering requirements of the Site.
  - c) If stormwater facilities and ponds are required to provide fencing. The required fencing cannot be credited towards storm water facility landscape requirements.
  - d) When fences Abut Public or private Roads or dissimilar land uses, the proposed plantings shall be on the exterior of the fence, facing adjacent roadways and properties.
  - e) Stormwater management Buffering and screening requirements may be exempt in Industrial Districts if they are not adjacent to dissimilar uses. When stormwater facilities adjoin or are adjacent to Residential Districts or Public roadways, the required screening shall be in compliance with Buffer areas provided for in subsections (1), (2), and (3) above.
  - f) The means in which to quantify required plant material will be measured from the top of the dam elevation in linear feet.
  - g) Plant material shall not be permitted on fill areas, which may compromise the structural integrity of the storm water management facility. This restriction shall not supersede the required landscape screening and Buffering requirements.
  - h) The required plant material shall be of native vegetation or an acceptable equivalent Site tolerant plant type in accordance with **Chapter 170, Subdivision and Land Development Ordinance**.
  - i) The proposed plant material and Landscaping requirements for the stormwater management facility should be designed in a manner that will minimize excessive maintenance.
  - j) If the side Slopes of the stormwater facility are too steep (3:1 Slope or greater) to mow and maintain, it is recommended that they be planted with acceptable groundcovers, which do not require excessive mowing.
  - k) The proposed required landscape shall not encroach or impede the ability to access and maintain the stormwater facility. Woody vegetation that includes, deciduous evergreen trees and shrubs shall not be on the embankments or within 50 feet of an inlet Structure, standpipe or drainage way. Proposed vegetation that has excessive leaf and seed litter will not be permitted.
  - l) Existing acceptable vegetation should be retained around the proposed storm water management facility when feasible. Credit may be applied to required perimeter landscape plantings if the existing trees can be maintained and are of acceptable size and health.

Figure 200-9-2, Minimum Plant Material Requirements

Buffer Type	Minimum Plant Materials
Softening Buffer	<ul style="list-style-type: none"> <li>• 1 canopy tree (2-2 1/2" minimum Caliper)</li> <li>• 2 understory trees (1 1/2" minimum Caliper)</li> <li>• 2 evergreen trees (8' minimum Height)</li> </ul>
Parking Lot Buffer	<ul style="list-style-type: none"> <li>• 5 shrubs (24" minimum Height)</li> <li>• 2 evergreen trees (8' minimum Height)</li> </ul>
Filtering Buffer	<ul style="list-style-type: none"> <li>• 2 canopy trees (2-2 1/2" minimum Caliper)</li> <li>• 2 understory trees (1 1/2" minimum Caliper)</li> <li>• 5 evergreen trees (8' minimum Height)</li> <li>• 5 shrubs (24" minimum Height)</li> </ul>
Screening Buffer <sup>1</sup>	<ul style="list-style-type: none"> <li>• 8 evergreen trees (8' minimum Height)</li> <li>• 2 understory trees (1 1/2" minimum Caliper)</li> <li>• 2 canopy trees (2-2 1/2" minimum Caliper)</li> <li>• 10 shrubs (24" minimum Height)</li> <li>OR</li> <li>• 30 upright evergreen shrubs (4' minimum Height)</li> <li>OR</li> <li>• 15 upright evergreen shrubs (4' minimum Height)</li> <li>• 4 ornamental trees (1 1/2" minimum Caliper) or</li> <li>• 3 canopy trees (2-2 1/2" minimum Caliper)</li> <li>• OR an alternative planting design that will result in at least an equivalent degree of visual screening to one of the above Screening Buffers.</li> </ul>
Limited Area/Buffer <sup>2</sup>	<ul style="list-style-type: none"> <li>• 1 upright evergreen shrub per 3' (4' minimum Height)</li> <li>OR</li> <li>• 4-6' solid fence or wall</li> </ul>

D. Walls and Fences.

1) Retaining Walls.

- a) On Lots in Residential Districts, retaining walls shall have a maximum Height of six feet.
- b) On Lots in nonresidential districts, retaining walls have a maximum Height of eight feet.

<sup>1</sup> At mature plant growth, a screening Buffer must be adequate to visually screen the proposed land use or development from off-site view. Several different planting options could be used to create an effective Buffer. Grading treatments and architectural features, such as walls, fences, and/or naturally undulating Berms may be required in addition to the minimum planting quantities in order to effectively provide a Visual Screen.

<sup>2</sup> The limited area Buffer can be used in older developed areas where space for planting is severely restricted. The planting screen would be equivalent to an evergreen Hedge planting. Alternative planting arrangements, such as shade or flowering trees with deciduous shrubs, could be considered in conjunction with a fence or wall, at the discretion of the Township.

2) *Nongravity Walls and Fences.*

- a) Fences and nongravity walls may be used for privacy, Protection or screening, but shall not be used in lieu of landscape screening in Buffer areas.
- b) Any fence or nongravity wall forward of the Setback Line shall meet the following requirements:
  - (i) It shall be no higher than four feet;
  - (ii) Shall not be a privacy or chain-link fence; and
  - (iii) Shall not encroach into the Street Right-Of-Way.
- c) Fences and non-gravity walls in Side and Rear Yards shall not exceed a Height of six feet.
- d) Fence Height measurements shall not include projections above fence posts, decorative features, or other protrusions.

3) *Fences.*

- a) Privacy fences shall include fences with horizontal or vertical slat spacing of less than one inch.
- b) No fence on a property in a Residential District shall be barbed wire or electric, excluding on a Lot with an Agricultural Use.
- c) No privacy or chain link fence may be constructed forward of the front Setback Lines.
- d) No front Yard fence shall exceed four feet in total Height (measured from the ground to the highest point of fencing material).
- e) No side or rear fence shall exceed six feet in total Height (measured from the ground to the highest point of fencing material).
- f) Fences, including decorative fencing, shall not have unprotected spikes or similar components.
- g) No fence or wall shall obstruct the flow of stormwater, except as part of a Township-approved stormwater system.
- h) Fences and walls shall not be permitted within any Right-Of-Way, drainage or stormwater management Easement, Clear Sight Triangle area, within the Site visibility area adjacent to railroads, or below the 100-Year Floodplain of any lake, river, or wetland.
- i) To avoid creating any possible no-maintenance zone(s), perimeter fences and walls shall be installed along and up to a property line but within the property limits, except, however, when a fence is shared by adjoining properties it shall be installed on the property line.
- j) When fences Abut Public or private Roads or dissimilar land uses, the proposed plantings shall be on the exterior of the fence, facing adjacent roadways and properties.

## Article X – Signs

### §200-1001 Applicability

- A. Purpose. The intent of this Article is to provide comprehensive and balanced Sign regulations that will preserve the right of free speech and expression; avoid excessive levels of visual clutter or distraction that are potentially harmful to traffic and pedestrian safety, property values, business opportunities, and community appearance; and ensure that Signs are well-constructed and maintained and expressive of the identity of individual activities and the community.
- B. Compliance.
- 1) A Sign erected or altered after the effective date of this Part must conform to the regulations specified in this Part.
  - 2) Existing Nonconforming Signs. A Sign lawfully existing at the time of the adoption or Amendment of this Section may be continued although the size or location does not conform with this Article. Maintenance of a Nonconforming Sign must comply with [Article XI, Nonconformities](#).
  - 3) A Person who displays a Sign in compliance with this Ordinance may substitute the message on that Sign without first securing additional approval, permitting, or notice, unless the substitution would result in the Sign becoming noncompliant.
  - 4) No Sign may be erected, placed, and/or maintained in the Township unless it is in compliance with the provisions of this Chapter and any other ordinances and regulations of the Township.
  - 5) Every permitted Sign must be kept in good condition and Repair. Any Sign which is allowed to become dilapidated as determined by the Township Manager or their designee may be removed by the Township at the expense of the Owner or Person in possession of the Lot on which the sign is located. The Township Manager or their designee will notify the responsible party with a certified letter prior to any removal action being taken by the Township per [§200-117, Enforcement Notification](#). No Sign shall be erected in such a position as to unduly interfere with or unduly impede driver's vision or vehicular traffic or safety Signs.
- C. Interpretation.
- 1) Any ambiguity in this Article should be resolved in favor of allowing the display of a proposed Sign.
  - 2) Nothing in this Article is intended to prevent the strengthening or restoration to a safe condition of a Nonconforming Sign for purposes of the Public health and safety.

### §200-1002 Signs Exempt from Permit Requirements

- A. The Signs provided for in this Section do not require a permit, are not counted against the maximum Sign allotment for a particular property, and are not subject to other restrictions in this Article, except those outlined in [§200-1003, Prohibited Signs](#). These exempted Signs are:
- 1) All Signs posted by the Township, or a County, State, or Federal agency.
  - 2) Street addresses and numbers.
  - 3) Noncommercial Signs and declarations of official religious holiday/event, provided they do not create traffic, sight, or fire hazards, and further, provided that such Signs are removed within five days following the holiday/event. Signs should not be posted for longer than 30 days. Further, such Signs shall not exceed 16 square feet.
  - 4) Signs announcing work actively being performed on the property by contractors, mechanics,

painters, architects, or other artisans, etc., provided that such Signs do not exceed five feet in Height, with a maximum area of six square feet. Further, such Signs shall be removed within five days after such work is no longer actively and continuously being pursued.

- 5) *All Flags*. Ground-mounted flagpoles are subject to the Height regulations of [Article III, Districts](#).
- 6) All Vehicle Signs.
- 7) All Murals, subject to the following:
  - a) Murals may include graphics, design, or text.
  - b) Murals are permitted on Buildings in the Conservation, Mixed-Use, and Nonresidential Zoning Districts with permission from the Building Owner.
- 8) *Political Campaign Signs*. These signs are subject to current federal and state codes and jurisprudence.

### §200-1003 Prohibited Signs

#### A. The following are prohibited:

- 1) A Sign that is structurally unsafe, unsafely installed, or otherwise hazardous to physical safety.
- 2) A Sign that obstructs free ingress to or egress from a fire escape, door, Window, or other required access way to or from a Building or Site.
- 3) A Sign not maintained in good condition as described in [§200-1001, Applicability, Subsection B.5](#).
- 4) A Sign that blocks a driver's clear line of sight of traffic, bicyclists, or pedestrians.
- 5) A Sign that interferes with the view of, or is confused with, a traffic control Sign or device, or a Sign that misleads or confuses traffic flow. A Sign's position, size, shape, color, and illumination, but not its content, must be considered when making this Determination.
- 6) A Sign that interferes with a driver's ability to see the Road due to brightness.
- 7) A Sign with material depicting, describing, or relating to Nudity, Specified Anatomical Areas, or Specified Sexual Activity, as defined herein.
- 8) A Sign nailed, fastened, or affixed to a tree or Utility pole.
- 9) A Sign located on private property against the wishes of the Owner.
- 10) A Sign comprising Banners, lasers, balloons, spinners, or Pennants.
- 11) A Roof Sign.
- 12) An Inflatable Sign.
- 13) A Sign with three-dimensions.
- 14) A Tri-Vision Board Sign.
- 15) Flag Signs.
- 16) A Sign that otherwise violates this Sign code.

#### B. *Enforcement against Prohibited Signs*.

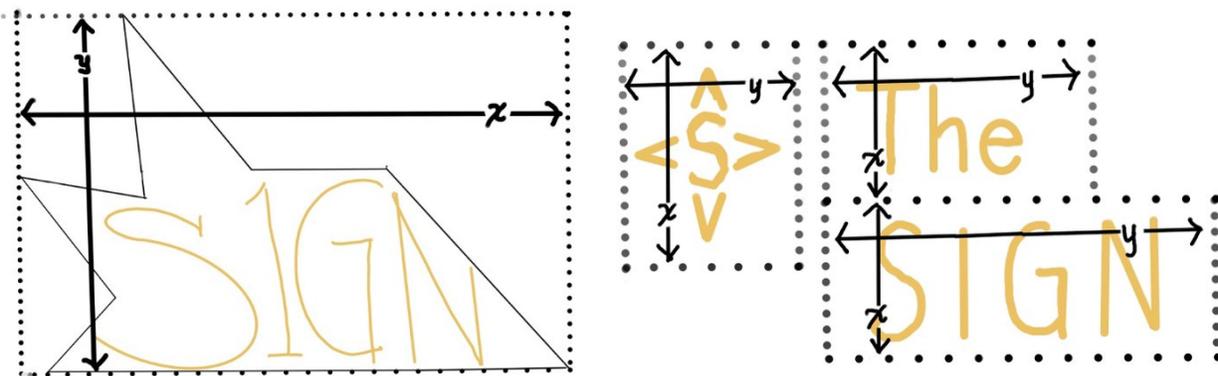
- 1) If, upon inspection, the Zoning Officer determines that a Sign violates this section, [§200-117, Enforcement Notification](#), apply, unless the Sign presents an imminent hazard to Public safety.
- 2) In cases of Emergency, meaning cases where a Sign presents an imminent hazard to Public safety, the Zoning Officer may cause the immediate removal of a dangerous or defective Sign, at the Owner's expense.

### §200-1004 General Sign Requirements

#### A. *Permits*.

- 1) Before installation, all Signs not otherwise exempted from the permit requirement per [§200-1002, Signs Exempt from Permit Requirements](#), must obtain a permit according to the permitting procedures of [§200-109, Zoning Permit](#).
  - 2) In addition to the Signs exempted from the permitting requirements in [§200-109, Zoning Permit](#), permits are not required for the following:
    - a) Changing Sign content.
    - b) The customary maintenance of a Sign.
- B. Signs and Sign Structures must maintain clearance and noninterference with all surface and underground Utility and communications lines or equipment.
- C. *Sign Materials and Construction.*
- 1) A Sign must be constructed of durable materials, using noncorrosive fastenings.
  - 2) A Sign must be structurally safe and erected or installed in strict accordance with the Uniform Construction Code.
  - 3) A Sign must always be maintained in safe condition and good Repair with all Sign information clearly legible.
- D. *Sign Area.*
- 1) Where the Sign consists of individual letters, designs, or symbols attached to a Building, awning, wall, or Window, the Sign Area is the smallest rectangle or smallest combination of rectangles that encompasses all the letters, designs, and symbols ([Figure 200-10-1, Sign Area](#)).
  - 2) *Multifaceted Signs.* In computing the square foot area of a double-faced Sign, only one side is considered in calculating the Sign Area.
  - 3) The permitted maximum Sign Area for all Signs is determined by the Sign type and its location as specified in [§200-1005, On-Premise Sign Regulations](#), and [§200-1006, Off-Premise Sign Regulations](#).

Figure 200-10-1, Sign Area



- E. *Illumination.*
- 1) Signs may be illuminated provided they are not located in a Residential Zoning District and they

- comply with this Section.
- 2) Uncovered light bulbs are prohibited.
  - 3) Signs, other than Public traffic control Signs, must have no elements that are flashing, blinking, rotating, or pulsating.
  - 4) Digital Display Signs are not considered flashing or pulsating Signs, provided they comply with this Article.
  - 5) The light output of any illuminated Sign must not measure more than one-half Footcandle at the boundary of an Abutting property.
  - 6) Hours of Operation.
    - a) Signs in Nonresidential Zoning Districts may be illuminated from 6 AM until 10 PM, or one-half hour past the close of business of the facility being identified or advertised, whichever is later.
    - b) Signs must have an automatic timer to comply with the permitted hours of operation.
  - 7) Types of Illumination.
    - a) External. Externally Illuminated Signs are subject to the following regulations:
      - (i) External illumination must be by a steady, stationary light source, shielded and directed solely at the Sign.
      - (ii) The light source must be static in color.
      - (iii) The light source must be concealed by translucent covers.
    - b) Internal. Internally Illuminated Signs are subject to the following regulations:
      - (i) Internal illumination, including neon lighting, must be static in intensity and color.
      - (ii) Digital Display Signs are permitted in accordance with the regulations below.
  - 8) Electrical Standards. The electrical supply to all Signs, whether to the Sign itself or to lighting fixtures positioned to illuminate the Sign, must be provided by means of concealed electrical cables. Electrical supply to Freestanding Signs must be provided by means of underground cables.
  - 9) Glare Control. Glare control must be achieved primarily by such means as cutoff fixtures, shields, and baffles, and the appropriate application of fixture mounting Height, wattage, aiming angle, and fixture placement. Vegetation screens do not qualify as the primary means for controlling glare.
- F. Digital Display Signs are subject to the following regulations in addition to all other requirements established in this Article.
- 1) Sign Type. Digital Display Signs are permitted in the form of Freestanding Signs in accordance with the regulations established under [§200-1005, On-Premise Sign Regulations](#), and [§200-1006, Off-Premise Sign Regulations](#).
  - 2) Maximum Number per Property. Where permitted, one Digital Display Sign is allowed per property.
  - 3) Message Display.
    - a) A Digital Display Sign containing animation, streaming video, or text or images which flash, pulsate, move, or scroll is prohibited.
    - b) One message or display may be brighter than another, but each message or display must be static in intensity.
    - c) The content of a Digital Display Sign must transition by changing instantly, with no transition graphics (e.g., no fade-out or fade-in).

- d) Message Duration. The minimum length of time each message may be displayed is 20 seconds.
  - e) Default Design. The Sign must contain a default design which must freeze the Sign message in one position if a malfunction should occur.
  - f) Brightness.
    - (i) Between sunrise and sunset, a maximum of 2,500 nits is permitted.
    - (ii) Between sunset and sunrise, a maximum of 250 nits is permitted.
  - 4) Conversion of a permitted non-digital Sign to a Digital Display Sign requires the issuance of a Permit.
  - 5) The addition of a digital display to a Nonconforming Sign is prohibited.
  - 6) Public Service Announcements. The Owner of a Digital Display Sign must coordinate with the local authorities to display, when appropriate, Emergency information important to the traveling Public including Amber Alerts or alerts concerning terrorist attacks or natural disasters. Emergency information messages must remain in the advertising rotation according to the protocols of the agency that issues the information.
- G. No Sign shall be erected or maintained on a tree or Utility pole, or painted or drawn on a rock or other natural feature, other than Signs indicating the prohibition or control or fishing, hunting, or trespassing, etc.

#### §200-1005 On-Premise Sign Regulations

- A. Signage Plans. The Owner of one or more Contiguous Lots with a Lot Area more than 10 acres may submit a Signage Plan for approval according to the requirements of this subsection.
- 1) Submission Requirements. To establish a Signage Plan, the Owner must submit the following:
    - a) An accurate, scaled Site plan of the Lot or Lots including the location of existing Buildings, Parking Lots, Driveways, and landscaped areas.
    - b) The location of all existing and proposed Sign indicated on the Site plan.
    - c) Elevations indicating the location of all Awning, Marquee, Projecting, and Wall Signs.
    - d) A summary of the following:
      - (i) The total number of Signs by type on the Lot.
      - (ii) The maximum cumulative Sign Area.
      - (iii) The maximum Sign Area for each Sign.
      - (iv) The Height of each Freestanding Sign.
  - 2) Amendment. A Signage Plan may be amended by filing a new Signage Plan.
  - 3) Recommendation. The Planning Commission will be given the opportunity to review the Signage Plan application and to submit a recommendation to the Township Board of Supervisors within 60 days of the date of application. The Township Board of Supervisors may proceed if no recommendation is received this time.
  - 4) Approval. The Township Board of Supervisors must approve, conditionally approve, or disapprove a Signage Plan. In making a Determination, the Township Board of Supervisors must consider whether the Signage Plan:
    - a) Complies with other applicable sections of this Article.

- b) Generally, will be capable of meeting applicable sections of **Chapter 170, Subdivision and Land Development Ordinance**.
  - c) Will not clearly conflict with other Township ordinances or state or federal laws or regulations known to the Township. The Township may require an Applicant to prove compliance, or to prove that appropriate applications have been submitted to obtain such compliance.
  - d) Will not result in or significantly add to a significant traffic hazard.
  - e) Will not create a significant Public safety hazard, including fire, toxic, or explosive hazards.
  - f) Will not negatively affect the desirable character of an existing residential neighborhood in a significant way.
  - g) Will involve adequate Site design methods, including plant screening and Setbacks as needed to avoid significant negative impacts on adjacent Uses.
- 5) *Sign Permits under a Signage Plan*. After approval of a Signage Plan, only Signs that conform with the plan are permitted to be erected, placed, painted, or maintained.
- 6) Lots that have a Signage Plan are exempt from the requirements of **Subsections B and C**.

**B. *In Conservation Zoning Districts and Residential Zoning Districts*. See [Figure 200-10-2, On-Premise Sign Regulations in Conservation and Residential Zoning Districts](#).**

*Figure 200-10-2, On-Premise Sign Regulations in Conservation and Residential Zoning Districts*

Number Permitted	1 Sign per Lot.
Types Permitted	Freestanding, Wall, or Window.
Max. Area per Sign	20 square feet
Illumination	None permitted.
Setback	All Signs must comply with the Setbacks for Principal Structures.

**C. *In the Mixed-Use Zoning Districts and Industrial Zoning Districts*. See [Figure 200-10-3, On-Premise Sign Regulations in Mixed-Use and Industrial Zoning Districts](#).**

*Figure 200-10-3 On-Premise Sign Regulations in Mixed-Use and Industrial Zoning Districts*

Regulation Type	VC District	VG, MU, IO, EP, AP Districts
Number of Signs Permitted	<ul style="list-style-type: none"> <li>▪ Inclusive of all Sign types:</li> <li>▪ Signs are permitted per Lot fronting on one Street.</li> <li>▪ Signs are permitted per Lot fronting on two or more Streets.</li> <li>▪ Up to 1 Sign may be a Freestanding Sign per Lot.</li> </ul>	<ul style="list-style-type: none"> <li>▪ For Freestanding Signs, which includes Monument Signs, Pole Signs, and Pylon Signs exclusively:                             <ul style="list-style-type: none"> <li>○ 1 Freestanding Sign Structure per Lot with less than 200 feet of Street Frontage.</li> <li>○ 2 Freestanding Sign Structures per Lot with at least 200 feet of Street Frontage.</li> <li>○ A Monument or Pylon Sign Structure may hold multiple Signs.</li> <li>○ Pole Signs not permitted in Mixed-Use districts.</li> </ul> </li> <li>▪ For all other Sign types, see each Sign type subsection below for number permitted per Lot.</li> </ul>
Illumination	<ul style="list-style-type: none"> <li>▪ External Illumination is permitted.</li> <li>▪ Internal Illumination is permitted provided the Sign</li> </ul>	<ul style="list-style-type: none"> <li>▪ External Illumination is permitted.</li> <li>▪ Internal Illumination is permitted provided the Sign does not face a Residential Zoning District.</li> </ul>

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	does not face a Residential Zoning District.	
<b>Monument Sign</b>		
Number Permitted	See above for total number of Signs permitted per Lot.	See above for total number of Freestanding Signs permitted per Lot.
Max. Area per Sign	20 square feet.	50 square feet.
Max. Sign Height	8 feet.	For Freestanding Signs, which includes Monument Signs, Pole Signs, and Pylon Signs exclusively.
Setback	All Signs must be set back from the closest Lot Line by a distance equivalent to the Sign Height.	
<b>Pole Sign</b>		
Number Permitted	Not permitted.	See above for total number of Freestanding Signs permitted per Lot.
Max. Area per Sign	N/A	64 feet.
Max. Sign Height	N/A	35 feet.
Sign Clearance	N/A	9 feet.
Setback	All Signs must be set back from the closest Lot Line by a distance equivalent to the Sign Height.	
<b>Pylon Sign</b>		
Number Permitted	Not Permitted.	See above for total number of Freestanding Signs permitted per Lot.
Max. Area per Sign	N/A	64 feet.
Max. Sign Height	N/A	35 feet.
Sign Clearance	N/A	9 feet.
Setback	N/A	All Signs must be set back from the closest Lot Line by a distance equivalent to the Sign Height.
<b>Wall Sign</b>		
Number Permitted	See above for total number of Signs permitted per Lot.	Wall Signs are permitted on up to two Elevations of a Building.
Max. Area per Lot	1.25 square feet per 1 linear foot of Building Elevation.	
Max. Letter Height	5 feet.	
<b>Projecting Sign</b>		
Number Permitted	See above for total number of Signs permitted per Lot.	1 Sign per 100 linear feet. of Building Elevation.
Max. Area per Sign	8 square feet.	12 square feet.
Sign Clearance	9 feet.	
Sign Projection	3.5 feet max.	5 feet max.
<b>Awning or Marquee Sign</b>		
Number Permitted	See above for total number of Signs permitted per Lot.	1 Sign per 50 linear feet. of Building Elevation.
Max. Area per Sign	6 square feet.	24 square feet.
Max. Sign Height	2 feet.	3 feet.
Sign Clearance	9 feet.	

**§200-1006 Off-Premise Sign Regulations**

- A. *In Conservation and Residential Zoning Districts.* Off-Premise Signs are prohibited in Conservation and Residential Zoning Districts.
  
- B. *In Mixed-Use and Industrial Zoning Districts.* See [Figure 200-10-4, Off-Premise Sign Regulations in Mixed-Use and Industrial Zoning Districts.](#)

Figure 200-10-4, Off-Premise Sign Regulations in Mixed-Use and Industrial Zoning Districts

Regulation Type	VC District	VG, MU, IO, EP, AP Districts
Number Permitted	1 Sign per Lot.	
Types Permitted	Monument.	<ul style="list-style-type: none"> <li>▪ Monument Signs.</li> <li>▪ Pole Signs as Special Exception only in Industrial Districts.</li> </ul>
Max. Area per Sign	32 square feet.	<ul style="list-style-type: none"> <li>▪ 64 square feet for Monument Signs.</li> <li>▪ 200 square feet for Pole Signs.</li> </ul>
Max. Sign Height	8 feet.	<ul style="list-style-type: none"> <li>▪ 8 feet. for Monument Signs.</li> <li>▪ 45 feet for Pole Signs.</li> </ul>
Max. Length	N/A	60 feet for Pole Signs.
Sign Separation	1,000 feet	
Illumination	<ul style="list-style-type: none"> <li>▪ External Illumination is permitted.</li> <li>▪ Internal Illumination is permitted provided the Sign does not face a Residential Zoning District.</li> </ul>	
Sign Clearance	N/A	10 feet. for Pole Signs
Setback	All Signs must be Setback from the Lot Line according to the greater of the Zoning district's Setbacks for Principal Structures or a distance equivalent to the Sign Height.	

§200-1007 Temporary Signs

- A. All Temporary Signs are subject to the following:
  - 1) A Temporary Sign may not be posted for more than 90 days.
  - 2) The Sign and Sign Structure must be kept in good Repair throughout the duration of the temporary period the Sign is posted.
  - 3) Number permitted.
    - a) One Temporary Sign is permitted per Lot with one Street Frontage.
    - b) Two Temporary Signs are permitted per Lot with two or more Street Frontages provided each Sign faces a separate Street.
  - 4) The size of any such Sign shall not exceed 24 square feet, unless otherwise noted in this section.
  - 5) Not more than one such Sign shall be erected along each 500 feet of Street Frontage for the Development.
  - 6) No such Sign shall be illuminated.
  - 7) No such Sign shall have a total height exceeding 72 inches.
  - 8) In Residential Zoning Districts and Conservation Zoning Districts.
    - a) The maximum Sign Area for Temporary Sign is six (6) square feet.
    - b) A-Frame and T-Frame Signs are prohibited in Residential Zoning Districts.
  - 9) In Mixed-Use Zoning Districts and Industrial Zoning Districts.
    - a) The maximum Sign Area for a Temporary Sign is 32 square feet.
    - b) An A-Frame Sign must not exceed 6 square feet for each Sign Face.
    - c) An A-Frame Sign may only be displayed during the establishment's hours of operation.
  - 10) Temporary Signs are not permitted in the Right-Of-Way. This prohibition includes Signs on Utility poles, in traffic medians, in Roads, on Shared Use Pathways, and on sidewalks.

§200-1008 Billboards

- A. Location. Billboards shall be erected as a principal use only in the Innovation and Enterprise Districts along U.S. Route 1.

- B. Spacing. Billboard Signs shall be:
- 1) Limited to a maximum of one two-sided Billboard per property.
  - 2) Not mounted on a Roof, wall or other part of a Building or any other Structure.
  - 3) Erected in such a manner as not to block the view from the Road or Street of any existing business Sign, residential or nonresidential Structure.
  - 4) Sign face shall be set back from the Ultimate Right-Of-Way a distance equal to the Height of the Billboard Sign or 16 feet, whichever is greater.
  - 5) Sign face shall be set back 10 feet from each side property line and 25 feet from the rear property line.
  - 6) Located no closer than 50 feet to any Building, Structure or freestanding Sign located on the same property.
  - 7) Located no closer than 750 feet to another Billboard Sign on either side of the Road, measured linearly.
  - 8) Not attached to the external wall or otherwise affixed to any part of any Building and shall not extend over any Public property or Right-of-way.
  - 9) Not located on Utility Rights-of-way or pipelines.
  - 10) Not located on a bridge.
- C. Size and Height.
- 1) A Billboard shall have a maximum allowable gross surface area of 250 square feet per Sign. A Billboard shall have a maximum of two Sign faces per Structure. However, the gross area of each Sign face shall not exceed the maximum of 250 square feet.
  - 2) The Billboard Structure may have Sign faces placed back-to-back or in a V-shaped configuration on a single Billboard Structure. The intersecting angle shall not exceed 30°.
  - 3) There shall be a maximum Height of 35 feet from the Finished Grade to top of Sign, measured at the center of the Sign. The lowest Sign edge shall be at least seven feet above the Finished Grade.
- D. Illuminated Billboards and electronic displays are not permitted.
- E. Permit requirements. A Sign permit application must be submitted to the Peters Township Planning Department in accordance with the general Sign regulations of this Article in addition to the following requirements:
- 1) Engineered Structure.
    - a) A Billboard Structure shall be entirely painted a single neutral color every three years.
    - b) Every 10 years, the owner of the Billboard shall have a structural inspection made of the Billboard by a qualified Pennsylvania-registered engineer and shall provide a certificate to the Township Engineer certifying that the Billboard is structurally sound.
    - c) Annual inspections of the Billboard shall be conducted by the Township to determine compliance with the provisions of this Chapter.
  - 2) Landscape plan.

- a) The entire base of the Billboard Structure on the side of the Sign face shall be permanently landscaped with suitable shrubbery and/or bushes a minimum of three feet placed in such manner as to screen the foundation of the Structure.
  - b) Permanent landscaped trees (minimum three feet in diameter) shall form a base and/or backdrop to the Billboard Sign when practical in the opinion of the Planning Director or their designee.
- 3) Pennsylvania Department of Transportation (PennDOT). The issuance of a permit for a Billboard by New Garden Township shall be conditioned upon the approval of the permit by PennDOT within 30 days of the issuance of the permit by New Garden Township.

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## Article XI – Nonconformities

### § 200-1101 General Regulations

- A. All lawful uses of land or of a Building, Sign, or other Structure existing on the effective date of this Chapter may be continued, altered, restored, reconstructed, changed, sold, or maintained even though such Use may not conform to the Use, Height, area, Yard, and or other regulations of the district in which it is located, provided such nonconforming conditions shall comply with the following requirements.
- B. Documentation of the Legal Nonconformance. The Zoning Officer has the authority but not the obligation to register nonconforming uses, structures, and lots.

### § 200-1102 Nonconforming Structures

- A. Continuation. Any Nonconforming Structure existing on the effective date of this Chapter or created by an Amendment to this Chapter may continue although such Structure does not conform to the dimensional requirements of this Chapter.
- B. Restoration. A Nonconforming Structure, which has been damaged or destroyed by fire, explosion, windstorm, or other natural or criminal acts, shall meet the following restoration requirements:
  - 1) A Nonconforming Structure with damage may be reconstructed providing the Structure is restored to meet the following requirements:
    - a) The restored Structure shall not exceed the Height, area, and volume of the original damaged Structure.
    - b) The restoration of the Structure shall commence within one year from the date the Structure was damaged and shall be continue uninterrupted, otherwise the Nonconforming Structure status shall be void.
- C. Demolition. In the event any nonconforming Building is destroyed or partially destroyed, and the Owner has determined Reconstruction/restoration infeasible, the Owner will be responsible for the complete removal of the Structure and debris as well as the filling of any excavated areas.
- D. Expansion or Alteration. The following requirements shall apply to the Expansion or Alteration of Nonconforming Structures or Buildings:
  - 1) The Lot on which the Expansion or Alteration is proposed shall be limited to only that Lot on which the Building or Structure existed at the time it became nonconforming. Expansion onto adjoining Lot is prohibited.
  - 2) A nonconforming Building or Structure may be extended or expanded on the same Lot, provided that the Extension or Alteration shall:
    - a) Be limited to 25% of the Gross Floor Area of the Building existing at the time the Building became nonconforming.
    - b) Conform to all dimensional requirements and all other applicable regulations of this Chapter.

- 3) The Applicant shall furnish conclusive evidence as to the extent of the Nonconformity when it was created. The above maximum increase shall be measured in aggregate over the entire life of the Nonconformity.
- 4) Extension Along a Nonconforming Setback. If an existing Building has a lawfully nonconforming Building Setback, Additions may occur to increase the Height above such Setback or to extend other portions of the Building provided that:
  - a) The Structure shall not be extended beyond the existing nonconforming Setback Line.
    - (i) No extension shall be permitted with five feet of any Street Right-of-way or property lines.
    - (ii) No extension shall be permitted which may cause danger to vehicular, bicyclist, or pedestrian traffic on a Street by obscuring the Clear Sight Triangle.
  - b) No additional Nonconformity shall be created.
  - c) The new nonconforming extension shall not be greater than 25% of the existing Floor Area.
  - d) All other requirements of this Chapter, including but not limited to provisions regarding Height restrictions, shall be met.
  - e) Such Addition shall not be permitted for a nonresidential Building that Abuts an existing principal residential Use.
- 5) In the case of a nonconforming Building or Structure which is used by a Nonconforming Use, any Expansion or Alteration must also meet the requirements of and is subject to the additional restrictions of [§200-1104, Nonconforming Uses](#), concerning the Expansion or Alteration of Nonconforming Uses.
- 6) Provision for vehicular access, off-Street parking and off-Street loading shall be consistent with standards required by this Chapter.
- 7) Buffers and screens shall be provided as necessary to adequately protect neighboring properties according to [Article IX, Buffers, Screening, and Landscaping](#). This includes, but is not limited to, fences, walls, plantings, and Open Spaces.
- 8) No Expansion of a Nonconforming Structure or a nonconforming Building located outside of a Structure existing on the effective date of this Chapter shall be permitted in any Floodplain area except in accordance with **Chapter 96, Floodplain Management**.
- 9) Excluding Expansion, any modification, Alteration, Repair, Reconstruction or improvement of any kind to a nonconforming Building or Structure located in the Floodplain area shall be permitted when either elevated above the Base Flood Elevation or Floodproofed. In no case shall any modification, Alteration, Repair, reconstruction or improvement cause unacceptable increases in Flood Height, velocities or frequencies.

#### § 200-1103 Nonconforming Lots

- A. Continuation. Any Nonconforming Lot, due to its Lot area or Lot width, existing as of the effective date of this Chapter or created by an Amendment to this Chapter may be continued although such Lot does not conform to the Lot requirements for the district in which it is located.

B. Development. The following requirements apply to the Development and Use of the Nonconforming Lot:

- 1) All the requirements of this Chapter shall be met except for Lot area and Lot width. Furthermore, no Lot shall be developed unless the following requirements are met:
  - a) Each Lot shall have an approved on-Lot water and wastewater system or access to Public Water and Public Sewer. Additionally, for those Lots utilizing on-Lot water the minimum required isolation distance between the well and the on-Lot wastewater system shall be provided as part of the zoning permit application.
- 2) Where possible, Contiguous Parcels under common ownership shall be re-platted to create conforming Lots.

§ 200-1104 Nonconforming Uses

A. Continuation.

- 1) Any Nonconforming Use existing on the effective date of this Chapter or created by an Amendment to this Chapter may be continued although such Use does not conform to the provisions of this Chapter. Change in ownership or possession of the Use or property shall not prevent the continuance of the Nonconforming Use.
- 2) Any planned residential Developments or portions thereof that were approved or completed prior to the date of the adoption of the Zoning Ordinance shall continue to operate under this Chapter in effect when they were approved.

B. Expansion or Alteration. Any Nonconforming Use may be expanded or altered only through the obtainment of a Special Exception from the Zoning Hearing Board and subject to the following criteria:

- 1) The Lot on which the Expansion or Alteration of a Nonconforming Use is proposed shall be limited to only that Lot on which the Use existed at the time it became nonconforming. Expansion onto adjoining Lots is prohibited. Any portion of the parent Lot with a Nonconforming Use on part of the Lot which is subdivided after the adoption date of the Zoning Ordinance and to which subdivided Lot the Nonconforming Use has not been extended before Subdivision shall, after Subdivision, be used only in conformity with all the provisions of this Chapter.
- 2) The total of all such Expansions or Alterations of Use shall not exceed an additional 25% of the actual area of those Buildings or Structures or portion of the land devoted to and actually used by the Nonconforming Use, whichever is more restrictive, as they existed on the date such Use first became nonconforming. All expansions of the Nonconforming Use and/or Building(s) that occurred since the Use originally became nonconforming shall count toward the above maximum increase.
- 3) The Nonconforming Use of a Building may be expanded within the Building, provided that the expansion is limited to 25% of the Gross Floor Area occupied by the Nonconforming Use at the time the Use became nonconforming.
- 4) The Applicant shall furnish conclusive evidence as to the extent of the Nonconformity and lawfulness in all respects when it was created.

- 5) Provision for vehicular access, off-Street parking and off-Street loading shall be consistent with standards required by this Chapter.
  - 6) Provision for Yards, Building Height and Building Area shall be consistent with the standards required for permitted uses in the district in which the Nonconformity in question is located.
  - 7) Appearance of Expansions should be harmonious with surrounding properties; this includes Landscaping, enclosure of Principal and Accessory Uses, Height, Signs, architectural features, maintenance of all improvements, and Open Spaces.
  - 8) Buffers and screens shall be provided as necessary to adequately protect neighboring properties in accordance with [Article IX, Buffers, Screening, and Landscaping](#). This includes, but is not limited to, fences, walls, plantings, and Open Spaces.
  - 10) No Expansion of a Nonconforming Use located outside of a Structure existing on the effective date of this Chapter shall be permitted in any Floodplain area except in accordance with **Chapter 96, Floodplain Management**.
  - 11) Excluding expansion, any modification, Alteration, Repair, Reconstruction or improvement of any kind to a Nonconforming Use located in the Floodplain area shall be permitted when either elevated above the Base Flood Elevation or Floodproofed to the extent required in with **Chapter 96, Floodplain Management**.
- C. Change of Use. The following regulations shall apply to the change of Nonconforming Uses:
- 1) A Nonconforming Use changed to a conforming Use shall not be permitted to be changed back to a Nonconforming Use.
  - 2) A Nonconforming Use shall be permitted to be changed to another Nonconforming Use upon application to the Zoning Hearing Board for a Special Exception and in accordance with [§200-115, Special Exception Use Procedures](#), of this Chapter and the following standards:
    - a) The Applicant shall show the Nonconforming Use cannot be changed reasonably to a Permitted Use.
    - b) The Applicant shall demonstrate the change will be less objectionable in external effects than the existing Nonconforming Use including, but not limited to:
      - (i) Traffic impact.
      - (ii) Environmental impact (e.g., Noise, smoke, dust, fumes, vapors, gases, Heat, odor, glare or vibration).
      - (iii) Solid Waste disposal.
      - (iv) Appearance.
    - c) The Applicant shall demonstrate the change will meet other requirements of this Chapter, including parking and loading, Buffering, and signage.
- D. Abandonment, Discontinuance and Delinquency.
- 1) The ceasing of a Nonconforming Use in a Building, Structure, or Lot for a continuous period of one year or more shall be considered the Abandonment of the Nonconforming Use. Subsequent use of such Building, Structure, or Lot shall be in conformity with the provisions of this Chapter.

- 2) The ceasing of a Nonconforming Use of land for a continuous period of one year or more shall be considered the Abandonment of the Nonconforming Use. Subsequent use of such land shall be in conformity with the provisions of this Chapter.
- 3) A Nonconforming Use shall be deemed abandoned in the event the Township or County acquires an unredeemed, tax delinquent property and sells said property. Subsequent use of the land shall be in conformity with the provisions of this Chapter.

#### § 200-1105 Nonconforming Signs

- A. Signs legally in existence at the time of the enactment of this Chapter, which do not conform to the requirements of specified herein, shall be considered nonconforming Signs.
- B. All permanent Signs and Sign Structures shall be brought into conformance with the Sign regulations specified under [Article X, Signs](#), when and if the following occurs:
  - 1) The Sign is removed, relocated, or significantly altered. Significant Alterations include changes in the size or dimension of the Sign. Changes to the Sign copy or the replacement of a Sign Face on a nonconforming sign shall not be considered a significant Alteration.
  - 2) If more than 50% of the sign area is damaged, it shall be Repaired to conform to this Chapter.
  - 3) An Alteration in the Structure of a Sign support.
  - 4) A change in the mechanical facilities or type of illumination.
  - 5) A change in the material of the Sign Face.
  - 6) The property on which the nonconforming Sign is located submits a Subdivision or Land Development application requiring municipal review and approval.
- C. Prior to the activities listed in **Subsection B**, nonconforming Signs may be repainted or Repaired up to 50% of the replacement cost of the Sign, the Sign copy may be changed, and Sign faces may be replaced provided that these actions do not increase the dimensions of the existing Sign, and do not in any way increase the extent of the Sign's non-conformity.
- D. Nonconforming Signs shall be exempt from the provisions of **Subsection B** under the following conditions:
  - 1) The nonconforming Sign possesses documented historic value.
  - 2) The nonconforming Sign is of a unique nature or type by virtue of its architectural value or design, as determined by the National Park Service, Pennsylvania Historical and Museum Commission, or local historical commission.
  - 3) When a nonconforming Sign is required to be moved because of Public Right-Of-Way improvements.
- E. All nonconforming Temporary Signs, portable Signs, and Banners must be permanently removed within 90 days of the effective date of this Ordinance, unless specific approval is granted as provided for herein.

## Appendix A: Small Wireless Communications Facility Design Manual

### Section 1: Purpose and Intent

The purpose of this Wireless Facilities Design Manual is to provide the Township with uniform design and aesthetic standards regarding the placement of small Wireless facilities within the Right-of-Way consistent with the Township's obligation to promote the Public health, safety, and welfare; to manage the Right-of-Way; and to ensure that the Public's use is not obstructed or disturbed by the use of the Right-of-Way for small Wireless facilities. The Township recognizes the importance of Wireless telecommunications facilities to provide high quality communications and internet access services to residents and businesses within the Township. The Township also recognizes its obligation to comply with applicable federal and state laws regarding the placement of Wireless telecommunications facilities in the Right-of-Way including, without limitation, the Telecommunications Act of 1996, 47 U.S.C. § 151, et seq., and Act 50 of 2021, 53 P.S. §§ 11704.1 — 11704.11.

### Section 2: Definitions

The definitions contained in [Article II](#) and [Article IV](#) of [Chapter 200, Zoning Ordinance](#), specifically [§200-411-F, Wireless Communications Facility](#), are incorporated into this policy by reference as though fully set forth herein. When not inconsistent with the context, words used in the present tense include the future tense, words in the plural include the singular, and words in the singular include the plural.

### Section 3: Aesthetic and Design Requirements for Small Wireless Facilities

The following aesthetic and design requirements shall apply to any Person who installs, operates, Modifies, or maintains a small Wireless facility in the Right-of-Way:

1. An Applicant and/or Permittee shall use all design techniques possible to minimize the visual impact of a small Wireless facility on the Public during and after the installation, Modification, or Repair of a small Wireless facility.
2. Applicants and/or Permittees shall minimize the quantity and size of Accessory Equipment placed on Wireless Support Structures. Long and narrow Accessory Equipment, as opposed to wide and bulky Accessory Equipment, should be used. Accessory Equipment should be clustered together as much as possible and located toward the top of the Wireless Support Structure when possible.
3. No Applicant and/or Permittee shall install or attach flashing lights or unnecessary, distracting, non-essential or poorly placed signage or stickers, unless required by Applicable Codes or agreed upon by the Township, on any small Wireless facility, Accessory Equipment, or Wireless Support Structure.
4. No small Wireless facility or Accessory Equipment shall have any exposed cables or wiring. All cables and wiring shall be concealed or contained within a Wireless Support Structure unless doing so is not Technically Feasible as determined by the Township's engineer. If the cables and wiring cannot be contained within the Wireless Support Structure, then all cables and wires shall be contained within a conduit that is flush mounted to the Wireless Support Structure. All conduits shall be of a color that matches the Wireless Support Structure to which the small Wireless facility is attached and be non-reflective unless otherwise agreed upon by the Permittee and Township.

5. Spools and/or coils of excess wires or cables shall not be stored on a Wireless Support Structure unless they are completely within the approved enclosures or conduits.
6. All cables and wiring shall be installed tautly and without excessive slack or extra cable storage on the Wireless Support Structure. Extra wiring shall not be attached to any Wireless Support Structure.
7. Exterior panel Antennas should not exceed the Height of the Wireless Support Structure.
8. Antennas and Accessory Equipment should not extend further than 20 inches from the Wireless Support Structure.
9. Applicants and/or Permittees shall avoid installing small Wireless facilities on Wireless Support Structures that are directly in front of Dwelling Units or businesses. Wireless Support Structures near Street corners, landscaped areas, or in Alleys shall instead be considered for installation first.
10. Small Wireless facilities and Accessory Equipment shall be painted with graffiti-resistant paint which matches the Wireless Support Structure's color and surroundings.
11. Colors and materials for small Wireless facilities, Antennas, and Accessory Equipment shall be chosen to minimize visibility and be compatible with the surrounding environment. Muted colors, earth tones, and subdued hues, such as light green, brown, gray, or light blue, or a color that is more compatible with the surrounding architecture or environment only as approved by the Township shall be used. Small Wireless facilities, Antennas, and Accessory Equipment shall match the color of the Utility Pole or Municipal Pole that they are attached to if they are attached to such Structure.
12. Advertisements are prohibited on a Wireless Support Structure, Accessory Equipment, or small Wireless facility. Likewise, all Manufacturer decals, logos, and the like shall be removed or otherwise entirely concealed by the Applicant/Permittee from any Wireless Support Structure, Accessory Equipment, or small Wireless facility.
13. If technically feasible, all Accessory Equipment shall be entirely contained or enclosed within a single cabinet which has the smallest physical dimensions possible.
14. Any replacement Wireless Support Structure shall be placed as close as possible to the existing Wireless Support Structure that is being replaced.
15. Any replacement Wireless Support Structure shall substantially conform to the material and design of the existing Wireless Support Structure or to the adjacent Wireless Support Structures located within the contiguous Right-of-Way.
16. The Height of any replacement Wireless Support Structure shall not extend more than 10 feet above the Height of the existing Wireless Support Structure.

#### Section 4: Updates

This Wireless Facilities Design Manual may be updated from time-to-time by resolution of the Township Board of Supervisor.

#### Section 5: Limitations

Nothing contained in this Wireless Facilities Design Manual shall be deemed to restrict or otherwise limit the lawful exercise of the discretion of Township staff in approving and issuing a permit that deviates from the strict application of these standards where, in the sole and exclusive judgment of the Township, circumstances so warrant.

Section 6: Effective Date

This Wireless Facilities Design Manual shall be effective as of the date of the adoption of the Zoning Ordinance.

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